HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

HEARINGS

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

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HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

TUESDAY, SEPTEMBER 28, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; Senator Warren B. Rudman, Republican, New Hampshire; and Senator Sam Nunn, Democrat, Georgia.

Members of the professional staff present: S. Cass Weiland, chief counsel for the majority; Eleanore J. Hill, counsel to the minority; Katherine Bidden, chief clerk; Chuck Morley, chief investigator to the majority; Howard Shapiro, Rod Smith, and Barbara Jeanne Cart, staff counsels; John Sopko, assistant counsel to the minority; Dave Faulkner, detailed investigator from the Federal Bureau of Investigation; and Sarah Presgrave, executive secretary to the chief counsel of the majority.

Chairman ROTH. The subcommittee will please be in order.

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on the Hotel Employees and Restaurant Employees International Union, to be held on September 28, 29, and 30, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.

SAM NUNN,
Ranking Minority Member.

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. This morning the Permanent Subcommittee on Investigations will continue its hearings into the Hotel and Restaurant Employees International Union. Our interest in this international stems from information developed more than 1 year ago from a variety of sources including internal Justice Department memoranda which indicate the existence of some very serious problems regarding this union.

Last June we heard testimony relating to local 54 in Atlantic City, and local 5 in Honolulu. The allegations concerning these locals were as diverse as their geographical locations. In local 54 we heard compelling testimony regarding the association of officers of the local with organized criminal elements and the abuses, either existing or planned, which could occur with respect to the locals' pension and health and welfare plans.

Recently, I was very shocked to hear that the father of one of our witnesses, Joseph Salerno, Jr., had been shot at his place of business on the New Jersey shore. And I have written the Attorney General urging a concerted Federal investigation of this incident and have passed along the sympathies of the subcommittee's members to Mr. Salerno. Other important events have occurred with respect to local 54.

Nicodemo Scarfo, the alleged Philadelphia organized crime kingpin, has had his bail revoked and has been incarcerated in a Federal institution. Al Daidone, vice president of local 54, has been charged with both extortion and murder. In order to fully apprise the subcommittee of events in Atlantic City as they bear on the subcommittee's investigation, I have asked the Attorney General of New Jersey and the Director of Enforcement of the New Jersey Gaming Commission to testify later this week. In the meantime, I want to stress in the strongest terms that we will not be deterred from our investigation of this union, and that I, as chairman, intend to press forward with hearings later this year as well as next year.

There is a pattern of behavior that raises two serious questions and as I said we are determined that we will get to the root of it and take whatever action is appropriate.

Today, the subcommittee begins to publicly air the results of its investigation of Hotel Workers' locals in San Jose, Oakland, San Diego, and Reno. Again, we have undertaken our own inquiry of these locals based on a diversity of allegations and information in the hands of the subcommittee. We have a situation in Oakland and San Jose where the chief executive officers of those locals have both been convicted in Federal court, although the conviction of the president of local 19 in San Jose was later reversed. He has since been reindicted.

In San Diego, we have encountered a situation where the local appears to have been run by the international directly or indirectly for some time, and where membership, despite a large influx in international backing, has not kept pace with what one would expect.

Finally, in Reno we have a local which has been under international trusteeship for 8 years, during which time the labor situation in the area covered by the local has been quite turbulent. We believe that we have important information relating to the use of certain funds generated by the international for the local, and look forward to the testimony later today of an individual who was involved in certain violent activities related to the Reno and Las Vegas locals.

It is my intention to develop a record of this hearing through the use of certain staff statements and testimony, and I would call as our first witness staff investigator David Faulkner, and Barbara

Jeanne Cart, staff counsel, for the purpose of outlining the results of the investigation of our inquiry of local 86 in Reno.

Chairman ROTH. If you both would raise your right hands, do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FAULKNER. I do.

Ms. CART. I do.

Chairman ROTH. Thank you. Please be seated.

DAVID FAULKNER, INVESTIGATOR, AND BARBARA JEANNE CART, STAFF COUNSEL, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Chairman ROTH. Dave, you may proceed.

Mr. FAULKNER. Thank you, Mr. Chairman.

Seated next to me is Barbara Jeanne Cart, staff counsel with the Permanent Subcommittee on Investigations.

According to the Department of Labor, international trusteeships are generally short-term actions taken to stabilize the finances of a local or, in the case of a merger, to close out the local. It is therefore, somewhat unique to find that the international's trusteeship over local 86 of Reno, Nev., has been in effect for some 8 years.

The Reno experience raises questions about the proper imposition of an international trusteeship over a local union. According to the 1980–81 HEREIU Convention Book:

> A trusteeship may only be imposed when financial conditions or other problems render the local union incapable of performing its functions on behalf of its membership.

The book continues by stating:

> (An) international trusteeship is never imposed unless conditions in a local union are of such gravity that it is the only way in which the local union's problems can be resolved.

In an effort to better understand the nature of such trusteeships, we have asked the Department of Labor to appear before the subcommittee to discuss the various purposes and effects of international trusteeships.

In the spring of 1974, E. W. "Bud" Tucker, secretary-treasurer of local 86, was sent to the international's headquarters in Cincinnati, Ohio, to inquire about the availability of international funds for organizing. From all indications, local 86, with its modest membership was steadily losing finances—although it was still solvent at that time—and was unable to finance a significant organizing effort. The international responded positively to the informal request and, on May 14, 1974, the membership of local 86 voted to formally petition the international for the trusteeship. Elmer "Al" Bramlet, head of Las Vegas local 226, one of the largest locals in the country, was appointed international trustee on June 4 and a massive campaign effort financed by the international was launched.

[At this point, Senator Nunn entered the hearing room.]

Mr. FAULKNER. Within 6 months, Al Bramlet raised the membership of local 86 by 58 percent—less than his boastful statement to the

Nevada Press in August 1974, but nevertheless a significant increase. However, existing contracts expired in Lake Tahoe on November 30, 1974, and in Reno on February 15, 1975, and the hotel/casinos which had earlier signed collective bargaining agreements with the union refused to negotiate with the union over a new contract.

From the standpoint of the hotel/casinos, it appeared that the local union had done little to represent its membership up to that time. Few hotel employees were even aware that the union existed in their establishments. Grievances were seldom filed and many of the hotel employees voiced open opposition to the union's presence.

As a result of these and other factors, a number of the major hotels and casinos in Reno and Lake Tahoe refused to bargain with the union on the ground that it lacked majority status. Several of the hotels subsequently filed election petitions with the National Labor Relations Board to resolve the question. These elections were blocked by the union, which filed numerous unfair labor practice charges against the hotels. Allegedly, the union blocked the elections because it did not have enough support at the time to win.

In 1976, the NLRB decided a series of cases regarding the hotel workers union in Reno and Lake Tahoe. Based upon established principles, a presumption of majority status arises when an employer enters into collective bargaining with a union. In the Reno and Lake Tahoe cases, most of the hotels had joined a multiemployer bargaining unit, the Reno Employers Council, becoming part of the ongoing agreements. Although union elections had never been held, it was presumed, because of these agreements, that the union actually represented a majority of the hotel employees at each of the participating hotels.

In the Board's decisions, it was determined that, while the hotels had withdrawn from the council and had acted as individual bargaining agents, the legal function of a presumption of majority status remained. Despite the evidence produced by the hotels at numerous NLRB hearings, the Board found that the hotels had failed to reestablish a reasonable doubt based on objective considerations that a majority of the unit employees no longer wanted union representation. The decisions were upheld by the Ninth Circuit Court of Appeals in 1980 and, in 1981, the Supreme Court denied certiorari.

The hotels, as a result of the Court's decision, resumed negotiations with the union in 1980. These negotiations are, in many instances, continuing to this day. In several instances, elections have been held. In each case, the union has been decertified. Negotiations with the Sparks Nugget, the Silver Spur, and the Nevada Club reached an impasse earlier this year, in part, because of the employees refusal to participate in the Las Vegas local 226 health and welfare fund. The fund was merged with the international fund in 1981.

At the time of the negotiations, Vincent J. Sirabella, vice president-at-large of the Hotel Employees International Union and the primary negotiator for local 86, insisted that the employees participate in the Las Vegas program, despite his admission that the fund was $11 million in the red. Since reaching the impasse, the union has engaged in picketing the Sparks Nugget. I would like to include in the hearing record several news articles regarding recent picketing activities of the union in the Reno area.

[The news articles referred to was marked as "Exhibit No. 1," for reference, and may be found in the files of the subcommittee.]

We have asked Gramby A. Hanley—son of Tom Hanley, a former labor organizer in the Las Vegas area, and no relation to International President Edward Hanley—to testify regarding his knowledge of union events occurring in the Tahoe/Vegas area during the mid-1970's. Specifically, Hanley has direct knowledge of the use of local 86 funds—subsidies from the international for alleged organizing purposes—to finance bombings in Lake Tahoe and Las Vegas. Hanley is currently serving a life sentence, without possibility of parole, for the murder of Al Bramlet in February 1977.

We have also contacted a number of the management officials and hotel employees who were involved in negotiations and other activities with local 86 over the past several years. Unfortunately, due to pending cases before the NLRB, these individuals declined the opportunity to appear before the subcommittee at this time.

Despite coercive efforts by the union, as outlined by Gramby Hanley, and the continued influx of international moneys for campaign purposes, local 86 membership and dues continued to fall at a steady and significant rate during the trusteeship. In 1977, following the murder of Al Bramlet, Ben Schmoutey succeeded Bramlet as international trustee of Reno Local 86 and head of the 21,000 member local in Las Vegas. Schmoutey's Reno assignment was only temporary, however, as Gerald McHugh was named trustee on March 22, 1977.

McHugh, formerly trustee in charge of Santa Barbara Local 498, was removed from that position on June 24, 1975, under a cloud of suspicion following an international audit of the local union. Despite questions regarding McHugh's background and competence, he was assigned by the international union to take control of the troubled local 86. The situation did not improve. During his tenure, local 86 membership declined approximately 65 percent. The local had already lost an estimated 50 percent of its membership by the time of Al Bramlet's death; the total decrease in union membership from its all time peak in 1975, was an astounding 82.5 percent. Yet, from 1974 to 1980, the local had spent approximately $1.8 million in organizing subsidies from the international.

At this point, Mr. Chairman, I would like to call your attention to several charts that have been drawn reflecting the changes in local 86 between 1973 and 1981. The first chart shows annual average employment figures for hotel and restaurant workers in the Reno area, supplied by the Department of Labor, Bureau of Statistics. As you will notice, there was a significant increase in the number of employees, and thus, potential union members, from 1973 to 1981.

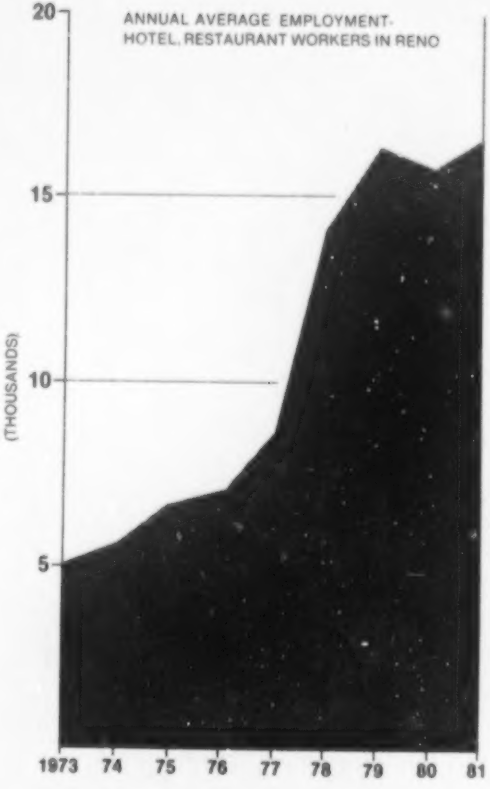
The second chart reflects local 86 dues collected from its membership and is directly correlated to the local's membership figures. You will notice that, despite the significant increase in the number of employees in the hotel and restaurant industry in the Reno area, dues-paying memberships declined sharply between 1974 and 1980.

A third chart reveals the net assets of local 86 between 1973, the year before the international was imposed, and 1981. Of particular concern here is the drastic drop in net assets between 1974 and 1975, and the debit balances from 1975 to 1978.

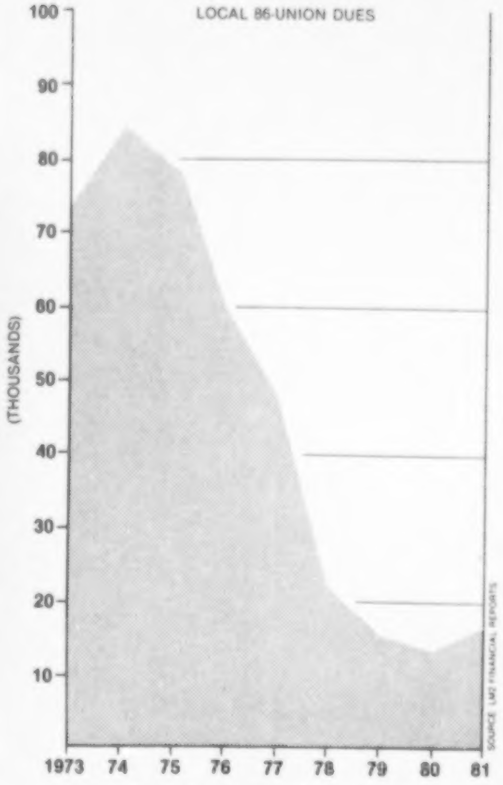
Finally, chart 4 reflects money received by the Reno local and specifically notes money received from the international between 1973 and 1981.

[The charts referred to follow:]

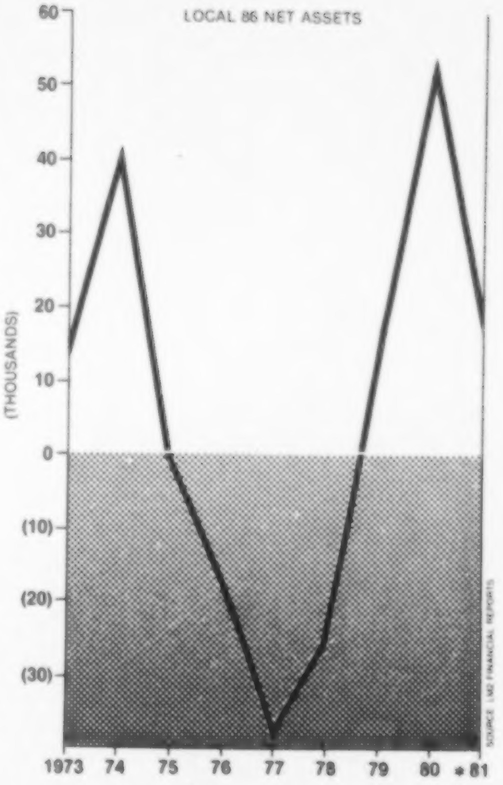
RENO


ANNUAL AVERAGE EMPLOYMENT-
HOTEL, RESTAURANT WORKERS IN RENO

SOURCE: BUREAU OF STATISTICS, DEPARTMENT OF LABOR

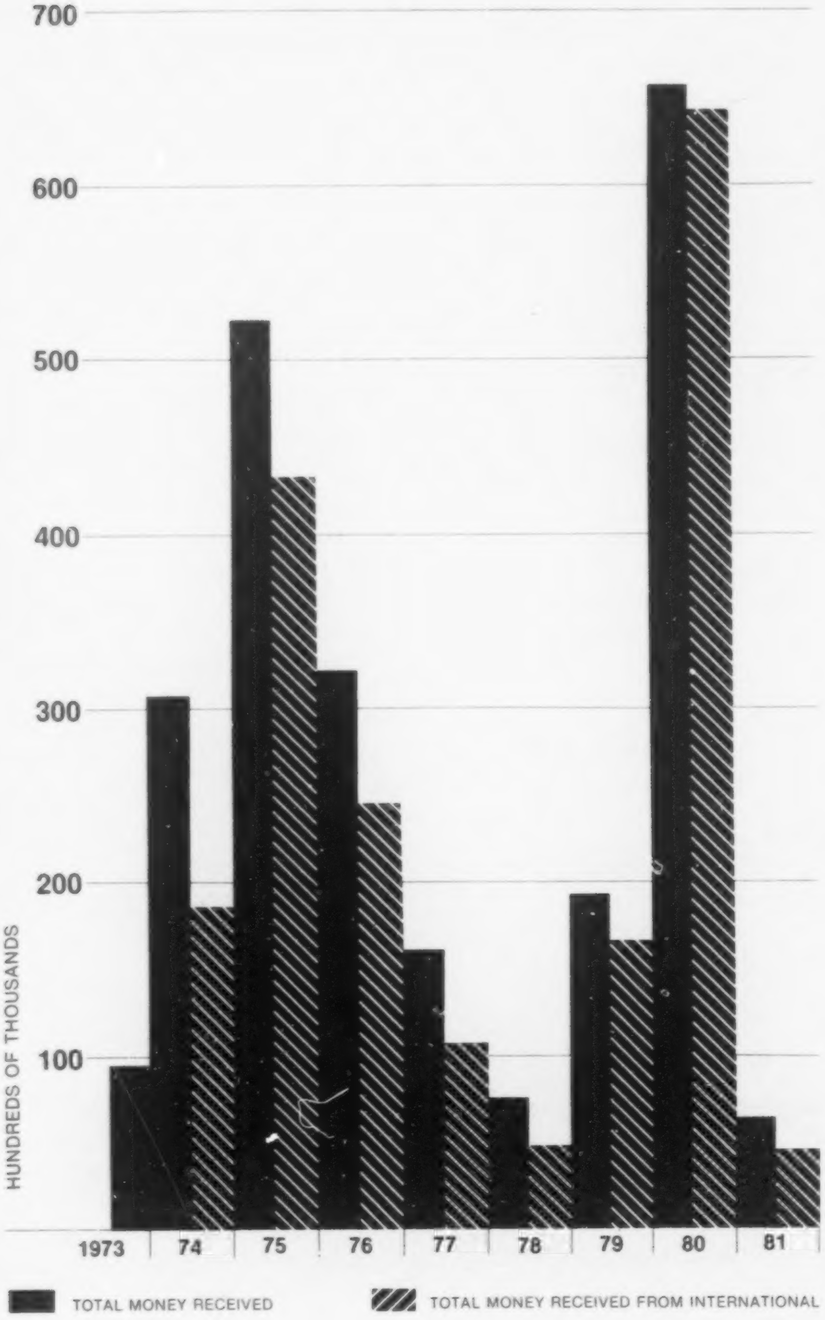

LOCAL 86-UNION DUES

DUES LEVIED IN 1975-$6.00 TO $8.00/MONTH
DUES LEVIED IN 1981-$8.00 TO $10.00/MONTH
(Figures prior to 1975 unavailable)


LOCAL 86 NET ASSETS

* JUNE 7, 1974-PLACED IN TRUSTEESHIP

LOCAL 86-RENO RECEIPTS



SOURCE: LM2 FINANCIAL REPORTS

Mr. **Faulkner.** Gerald McHugh has been subpenaed to appear before the subcommittee to answer questions regarding his term as trustee for local 86. Additional witnesses are expected to be brought before the subcommittee at a later date regarding the ongoing events at local 86.

While our review of local 86 records reflects that the bulk of the organizing funds were, in fact, used for organizing purposes, the testimony of Gramby Hanley regarding the misuse of funds raises grave questions regarding the international's fiduciary responsibility for such subsidies. Thank you, Mr. Chairman.

Chairman **Roth.** The fact that the membership went down or the dues declined at the very time employment in the hotel-restaurant business went up in itself of course is nothing improper.

Mr. **Faulkner.** No; our concern here is the dramatic increase in the amount of money infused into the local for these organizing purposes which apparently were unsuccessful.

Chairman **Roth.** Even that, in and of itself the mere fact that the international spent considerable money to try, if they made a bona fide effort to increase union membership, that would not be, there is nothing wrong with that.

Mr. **Faulkner.** No; you are right, sir.

Chairman **Roth.** But your concern is that these funds were improperly used?

Mr. **Faulkner.** That is correct. The testimony of Mr. Hanley will raise grave questions regarding the misuse of certain portions of these funds and the fact that the accountability is questioned because of that.

Chairman **Roth.** Your concern is also the fact that the international union seems to be using trusteeships for its own purposes rather than serving the membership, not only here, but in other locations. Is there a pattern of behavior?

Mr. **Faulkner.** There seems to be an emerging pattern within this union of the control by the international of these locals through trusteeships, mergers, and the appointment of the heads of these locals by the international.

Chairman **Roth.** We are very pleased to have the ranking member of the minority, Senator Nunn.

Senator **Nunn.** Thank you very much, Mr. Chairman.

OPENING STATEMENT OF SENATOR NUNN

Senator **Nunn.** Mr. Chairman, as ranking minority member of the subcommittee, I want to commend you and the staff for going forward with the subcommittee's mandate to investigate questionable and corrupt practices in the labor-management field.

It is in keeping with that mandate and the history of this subcommittee to examine allegations that corrupt officers and practices are being tolerated in certain locals of the Hotel Employees and Restaurant Employees International Union.

In hearings last June concerning the Atlantic City and Honolulu locals and in this week's hearings on four Western locals of the union, the subcommittee is continuing its efforts to examine allegations of financial mismanagement and the reported influence of crime figures on union affairs.

The collective-bargaining process is one of the most important freedoms Americans enjoy. Our Nation believes in the right of workers to organize themselves and petition their employers for better wages, conditions, and benefits. However, because of the special status accorded unions, they must also be subjected to rigorous standards of conduct. Union corruption is especially regrettable because it betrays the trust and faith of union members and because it perverts the principle of collective bargaining in a free society.

The overwhelming majority of union leaders in this country have spoken out, and will keep on speaking out, against corruption. As recently as last October, Lane Kirkland, the president of the AFL-CIO, came before this subcommittee to endorse legislation we drafted to make it more difficult for corruption to exist in organized labor. That legislation, S. 1785, the Labor Management Racketeering Act of 1982, has since been passed by the Senate and is now awaiting action in the House. In endorsing that bill, Mr. Kirkland was following in the tradition of his distinguished predecessor, the late George Meany, whose strong antiracketeering position was well known.

The approximately 380,000 members of the Hotel and Restaurant Workers Union have a right to expect their leaders to have one objective—and one objective only—and that is to look after the interests of the rank and file. On that point, there can be no compromise. It is our hope that these hearings will help those union members to determine whether any such compromise has occurred.

This concludes my statement.

I don't have any questions. I want to commend you and the majority staff for continuing the vigorous activity of this subcommittee in investigating union corruption. There is no more important right we have in America than the right of free collective bargaining and for that purpose unions have been given a unique position in the structure of our laws and have to be held in very high accountability because of that.

The accountability that this hearing and this subcommittee is trying to hold union officials to, I think, is for the best interest of the rank and file. So I commend you for these hearings.

Interestingly enough, Mr. Chairman, as you well know as cosponsor of S. 1785, that bill dealing with this whole question of union corruption has passed the Senate and it passed after about 5 years of hearings by this subcommittee and Senator Hatch's committee and others and is now languishing in a House committee. We don't seem to be able to get the attention of the subcommittee at all and that is a real shame because this is the piece of legislation that would dramatically revise the Taft-Hartley laws and increase penalties and also provide for immediate disqualification when a union official is convicted of a Taft-Hartley violation to the detriment of their members.

It is very disturbing to me that after 5 years of working on this, after having passed that legislation, which by the way has been strongly endorsed by Lane Kirkland, head of the AFL-CIO and they are trying to work on the House side, we now have a subcommittee that we do not seem to be able to get any movement at all in this respect. I don't know what we can do about it. But I bring that up as an interesting item for this subcommittee because I would wager not having heard all of the testimony that before these hearings are over you are going to probably have again a very strong set of facts that indicate that this kind of legislation is needed.

And when we both got labor and management behind that kind of legislation, yet, we can't get the attention of a key subcommittee in the House that supposedly has the same interest that we do, it is very disturbing. So I do look forward to participating in these hearings. I have an Armed Services Committee going on that I will have to be in and out for. But I commend you, Cass and the staff, for an excellent job.

Chairman **Roth**. I would suggest, Sam, on the legislation it is my understanding that when we are going to be back here later in the year, that you and I try to sit down with the House subcommittee and see if we can't spark some movement.

Senator **Nunn**. I agree with that completely. So far none of us including the AFL-CIO who are involved in this are even able to get the particular individuals involved to return phone calls. There is not much interest in it at this time but I hope we can get the attention in November and if not, I am going to try to attach it to other pieces of legislation that may be more supported in the House side.

Chairman **Roth**. Very good.

At this time I would like to call Fred Heitmann, Chief, Office of Elections and Trusteeships, Labor Management Services Administration, U.S. Department of Labor.

Mr. Heitmann, if you would please stand, under the rules of our subcommittee every witness must be sworn. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Heitmann**. I do.

TESTIMONY OF FRED HEITMANN, DIRECTOR, OFFICE OF ELECTIONS AND TRUSTEESHIPS, LABOR MANAGEMENT SERVICES ADMINISTRATION, U.S. DEPARTMENT OF LABOR

Chairman **Roth**. Please be seated.

It is my understanding that you have no prepared statement?

Mr. **Heitmann**. That is correct.

Chairman **Roth**. So then I will proceed with a number of questions.

Mr. Heitmann, before we get into trusteeship, could you please tell me what your current position is at the Department of Labor and a brief description of your background?

[At this point, Senator Nunn withdrew from the hearing room.]

Mr. **Heitmann**. Yes; I am Chief of the Branch of Elections and Trusteeships in the Office of Labor Management Standards Enforcement which is part of the Labor Management Services Administration.

I have been with the Department since the Labor Management Reporting Disclosure Act of 1959 became operative. It was passed in 1959. I joined the organization in 1960. I was in the New York area office until 1966 when I was promoted to Washington, became chief of the group that reviewed embezzlement cases. I was with that group until 1970 when I moved into my present branch. I became chief in 1977.

Chairman **Roth**. Could you briefly describe what a union trusteeship is and what Federal laws govern trusteeships?

Mr. HEITMANN. The governing title is title III of the Labor Management Reporting Disclosure Act of 1959.

Basically what the law does is to require a union to file a report with our agency when it places a local in trusteeship. Every 6 months thereafter it must file an additional report if it continues the trusteeship. A trusteeship basically is an assumption of authority by the international union, conceivably by an intermediate body, over a local union. It interrupts the term of office of the incumbent officials in that local and usually replaces them with someone brought in from outside.

Occasionally there will be a situation where the incumbent officials are themselves made the trustees in order to enhance their power and to make it less susceptible to challenge. But usually the trustee comes from outside and he has complete authority while he is there.

In years before the current law was applicable, trusteeship could be used, for example, to control the vote of the organization, the total organization.

Chairman ROTH. To what?

Mr. HEITMANN. To control the votes within the international union itself. For example, at a convention where the vote might be close, or anticipated to be close, the incumbent administration might place a sufficient number of locals into trusteeship in order to control their vote. That is now forbidden under the present law.

To continue, I indicated part of what the law requires. The law sets up certain standards and unions must comply with these in order to apply a trusteeship.

First of all, the international may impose a trusteeship in order to correct financial malpractices in a union. For example, if an officer had embezzled money or, simply, if officers were incapable of managing a large amount of money, the international could impose a trusteeship. It can impose a trusteeship in order to restore democratic procedures. This occasionally happens in some unions when a dissident group might be completely out of hand.

Meetings might be disrupted and no business can take place. In those situations, the union, again, may impose a trusteeship.

I think that probably covers the ground except that there is a general catchall that might include such things as a union going out on strike when it isn't supposed to, or refraining from striking when it is supposed to and, again, the union might use that catchall power in order to place the local organization——

Chairman ROTH. What is the Department of Labor's role with respect to these trusteeships? Do the unions have to come to you?

Mr. HEITMANN. Initially unions must report to a different part of my organization, that they have indeed placed a subordinate body under trusteeship. They must file a report indicating why this is being done. The reason must fall in amongst those reasons I have given and the International Union must, as I indicated earlier, file a financial report every 6 months subsequently.

In addition to that, my branch can become involved in a trusteeship if a member files a protest with the Department of Labor. This can be done anonymously. There are, in fact, however, very few complaints with respect to trusteeships.

Chairman ROTH. The trusteeship is an unusual procedure, one that can be for a valid purpose but, of course, can be abused as well.

When they file these papers with your organization, the Department of Labor, do you automatically investigate in any depth why these trusteeships are being created?

Mr. Heitmann. When a trusteeship is imposed, the union must file a report but the department has no authority to investigate the reasons for the trusteeship itself. If the department had reason to suppose that the submission was inaccurate, let's say, particularly the financial report, which is audited by the Washington staff, the department could go in to determine whether or not a proper financial report was being submitted if we have reason to question it. But the trusteeship itself could not be questioned unless there was a specific complaint concerning its imposition.

Chairman Roth. What could you do? Let's say you found facts that led you to believe it was for improper purposes.

Do you have any authority under those circumstances?

Mr. Heitmann. As I said we couldn't investigate that unless we had a complaint from a member. If we had one, then we could determine whether or not the union's trusteeship was indeed imposed for the reasons claimed.

There is a presumption in the law that a trusteeship is valid during the first 18 months of its existence and after those first 18 months, the presumption changes.

Chairman Roth. How often are trusteeships imposed?

Mr. Heitmann. Today, or since the law passed in 1959, trusteeships are not very frequent.

In the steelworkers there are a considerable number of trusteeships that respond to problems in the industry itself, such as plants going out of business. Sometimes, unions have no more purpose for existing but they may have treasuries that have to be safeguarded and trusteeships can be imposed in situations such as that.

Chairman Roth. Do you happen to know how many times the hotel workers unions have imposed trusteeships?

Mr. Heitmann. According to a report, again, from a different part of my organization, as of September 3, there were 16 locals in trusteeship. According to statistics that have been developed from the number of trusteeships reported to us, only one other international union has a greater incidence of trusteeships.

Chairman Roth. What is the other union?

Mr. Heitmann. The other union is the chemical workers. We have very little business with them, very few complaints concerning them. I don't know why there is so high a number in that industry.

Chairman Roth. But you have 16 out of how many unions?

Mr. Heitmann. I do not know offhand the number of unions.

Chairman Roth. Can you submit that for the record?

Mr. Heitmann. OK. We will.

Mr. Weiland. Mr. Chairman, let me inject, if I may.

The Department has furnished us with the latest count on the number of locals. It appears to be 228.

Chairman Roth. Thank you.

In the Chemical Union case you haven't had much—I understand you to imply that you do not have that many complaints from the workers; is that correct?

Mr. HEITMANN. We have had no complaints concerning chemical worker trusteeships. In the area where we have more work, which is elections, we again have very little work with the chemical workers.

Chairman ROTH. What is the situation with the hotel workers?

Mr. HEITMANN. The hotel workers have had quite a few election cases over the years. In fact, the leading case cited in most court decisions on the election side is local 6 of the Hotel & Restaurant Workers in New York which dates back to the midsixties. I was the investigator on that case.

At the present time we have one trusteeship case in court in Alaska. We have had several recent election cases, some of which have been delayed by the imposition of trusteeships during the time we have been investigating the election or trying to resolve the election by getting a supervised—that is, supervised by the Secretary of Labor—election to remedy an original bad election. Trusteeships have cropped up in those situations from time to time, seeming to frustrate some of the election work going forward.

Chairman ROTH. Are you saying that the creation of a trusteeship would interfere with an investigation you are making, that you couldn't proceed because of the trusteeship?

Mr. HEITMANN. It might affect more the gaining of a remedy to a bad election. In other words, if we have already investigated an election conducted by the local union and are actually going into the court to litigate it, a trusteeship will change the entire situation.

First of all, the local union is no longer entitled to its own officers by reason of the trusteeship. Therefore we would have to begin investigating all over again to try to demonstrate—if we had a complaint against the trusteeship—that the trusteeship was invalid before we could continue with the election phase of our work.

Chairman ROTH. What are the normal reasons for imposing trusteeships?

Mr. HEITMANN. As I indicated in the example involving the steelworkers, it may be that a lot of plants are going out of business and the international wants to preserve the assets of a local which now has no work, no jobs available. That would be one reason.

Another might be financial mismanagement in the union. It could be an embezzlement or because the union was temporarily short of funds. If an embezzling officer might be able to stay in office, a trusteeship might be imposed to keep him out.

Chairman ROTH. Look at the other side of the coin. May there be ulterior motives in creating a trusteeship?

Mr. HEITMANN. There could be. As I suggested with the hotel-restaurant workers—some years ago I felt that they were using trusteeships as a device to frustrate remedial efforts in the election field.

There certainly are other reasons why trusteeships might be imposed for bad purposes. For example an officer might be elected in a local union who would be perceived by the international as a danger to them, a potential rival for an international office.

They can cut his career in the bud by putting his local in trusteeship and expelling him from office. There is absolutely no right that would allow him to get back into office unless he could prove that the trusteeship was invalid and as I say that is very difficult, because for the first 18 months, it is presumed to be valid.

Chairman ROTH. As I understand, what you are saying is that a trusteeship can, of course, be for a very valid purpose to try to protect the funds in a local union from corrupt local employees or for other valid purposes but at the same time by an unscrupulous group in an international, it could be used for improper purposes.

Mr. HEITMANN. It can.

Chairman ROTH. And you say that in the case of the hotel workers, is that correct, that you one time testified that you felt it was used to obstruct the investigation of a local?

Mr. HEITMANN. I haven't testified to that effect. I have had that opinion. I have mentioned it to others. For example, local 5 in Hawaii was recently the subject of an election case that dragged on and on in court. A trusteeship was threatened in that. When it was imposed it changed the ground rules under which we were operating in court, helping along the delay.

The case that we currently have in court, local 879 in Alaska, is one where an incumbent officer was removed; she protested; we felt she should be back in office. We went in to court to get her restored to office. The trusteeship was imposed. That stopped our efforts at that time. Eventually we did get her back into office but, again, another trusteeship followed.

The trusteeship which we are contesting in court was allegedly ended by the union. Action in court stopped. We asked that the case be continued on the docket until we could get the required terminal trusteeship reports concerning local 879. The reports were never forthcoming.

At a time when the Department of Justice was becoming anxious to drop a case that Labor had asked be continued in court, we both were suddenly faced with an entirely new trusteeship being imposed.

I am not saying without evidence that this is necessarily wrong. But it would appear that the trusteeships are being perpetuated and as I say, frustrating, perhaps, the will of the members who seem to have wanted to elect one particular officer and have been unable to have her.

Chairman ROTH. We have something like 16 trusteeships in this particular union. And you have had some evidence, at least, in one or two cases, that it may be for improper purposes. Can you investigate the whole situation based on that fact or one complaint?

Do you have enough authority to really try to determine whether or not the trusteeships are being used for a valid purpose?

Mr. HEITMANN. I suppose one could say that under the broad powers contained in the act, we have the power to investigate. We would not have the power to do anything about it except, conceivably, to issue a report. To actually move into a local that is in trusteeship and try to remove that trusteeship, we must have a complaint from a member of that local.

Chairman ROTH. In the case of the 16 trusteeships, would you know how many complaints you have received under each of these trusteeships?

Mr. HEITMANN. We had complaints, obviously, on the case that is in court in Alaska and that is the only one on which we have a current complaint.

Chairman Roth. When you talk about a complaint, is that a highly technical complex matter to file or can an individual just call and write a letter?

If an individual worker wrote and said that they felt that things weren't appropriate and proper and gave a reason, would that be sufficient? Would that be a complaint?

Would that give you the basis to investigate?

Mr. Heitmann. Probably. We would undoubtedly want to contact that person and make sure that this is indeed what he has in mind, but a letter that specifically stated I wanted to file a protest against a trusteeship, yes, that would be a valid complaint.

Chairman Roth. Are you familiar at all with how the employee, hotel employee union, uses trusteeships?

Mr. Heitmann. Again, I could speculate. Until one investigates any specific trusteeship, one doesn't know whether it is validly imposed or not. Again, it seems that we have had trusteeships arise where union officers' positions appear to be in jeopardy because a challenge has been filed with us against their elections.

We have also had trusteeships imposed where a union officer appears to be losing his strength in one area, even where there has been no complaint to us. And trusteeships have permitted officers to move from one area where the tenure of that officer may be in difficulty to another area where he is installed as a trustee.

Eventually, he may then stand for office in the new local when the trusteeship is removed.

Before trusteeships are removed in the Hotel-Restaurant Employees Union, there is a requirement in their constitution that a new constitution be written. A new constitution can make a particular officer or a particular member eligible who wasn't eligible before. So if we have an officer moving from local "A", becoming a trustee in local "B", he may not be eligible under the rules of that local to run for office in the local.

There are two possibilities. They may keep him there long enough as trustee so that he becomes eligible to run for office in the new local; or they can rewrite the constitution as required under their own constitution.

Chairman Roth. Mr. Weiland.

Mr. Weiland. Mr. Heitmann, I have just a couple of questions.

It is my understanding that you would say generally a trusteeship is of relatively short duration when imposed in the normal course of events by an international?

Mr. Heitmann. Yes, generally speaking.

Mr. Weiland. Is it fair to say, then, in your own experience as a long-time employee of the Department that the 8-year trusteeship over the Reno local is extraordinary?

Mr. Heitmann. Yes; I think it is.

Mr. Weiland. Going back to something you touched on earlier, you mentioned that historically, internationals—I am not speaking of the hotel workers now but strictly from a broad historical standpoint—have used the imposition of trusteeships to control votes within the international; that there had been a change in the law that had been designed to stop that.

Would you give us some elaboration on that point, specifically, I believe you have told the staff that the Teamsters had a problem in that area?

Mr. **Heitmann**. In the McClellan committee hearings, years ago, preceding the passage of the law, one of the things they were concerned with was phantom locals. Before the present law was in effect and when unions were not reporting to any government authority, local unions could be created that either didn't exist or existed with only a few members. They could be placed into trusteeship. They would have votes at an international convention and the trustees who were appointed by the international could, of course, control the vote cast by those trusteed locals.

There were other reasons occasionally. Sometimes a local, not necessarily in the Teamsters now, but let's say in the building trades, might have a great deal of work in its particular area and might build up a very large treasury.

The work might be completed at some point and the union would go downhill, so to speak, in terms of its membership.

A trusteeship could be imposed there and a very large treasury which was no longer necessary for the few remaining members could be moved to the international.

This, again, is prohibited now by the present law.

Mr. **Weiland**. Finally, you mentioned one traditional reason for imposition of a trusteeship is to protect the members and the local assets in a case where there is some question arising about the integrity of officers, for example, in an alleged embezzlement.

Were you aware that with respect to both the San Jose and Oakland locals, where the chief executive officers were indicted by Federal grand juries, there were no trusteeships imposed?

Does that strike you as being uncommon, given the propensity of this international to impose trusteeships generally?

Mr. **Heitmann**. One, I think, could certainly say that.

Mr. **Weiland**. Thank you.

Chairman **Roth**. Thank you, Mr. Heitmann.

Again, I would be interested in your further observations as to whether or not you have adequate authority to investigate circumstances such as involved the hotel workers. So if you have any further comments, either now or at some later time, I would appreciate being advised.

Mr. **Heitmann**. I would be delighted to do that.

Chairman **Roth**. Thank you, Mr. Heitmann.

At this time, in preparation for the next witness, we will have to have the room cleared of everyone. Our witness, while he is not assuming a new identity, the Marshals have asked that he be permitted to testify behind the screen. So we are acceding to that request. I would ask at this time that everybody except the ones up here leave the room.

[Brief recess.]

[Member present at time of recess: Senator Roth.]

[Members present at time of commencement after recess: Senators Roth and Rudman.]

Chairman **Roth**. The subcommittee will be in order.

Our next witness is Mr. Hanley, Gramby Andrew Hanley. Under our rules, Mr. Hanley, you must be sworn. We will ask you to stay seated. Please raise your right hand. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HANLEY. I do.

TESTIMONY OF GRAMBY ANDREW HANLEY

Chairman ROTH. Under our rules, you may now, at this time, give your prepared statement.

Mr. HANLEY. Mr. Chairman, the honorable members of the subcommittee, I respectfully request that the record reflect that any and all provisions of the original case of LV-79HEC41 wherein the Honorable Harry Clayburn set forth provision that:

> Any and all testimony given and derived from Gramby A. Hanley in the aforesaid case regarding bombings, transportation of explosives, sale of explosives and/or related acts stemming directly from said bombings, be exempt from any and all pardon boards, parole boards, and commutation hearings for the witness Gramby Andrew Hanley, wherein said witness will not be subjected to further degradation and retribution for cooperation and assistance in bringing the criminal matters to light before the Bar or investigative committees; et cetera.

Therefore, witness Gramby A. Hanley respectfully requests that the honorable subcommittee enter into the record and let said reflect that no portion of the record be allowed to be used by the State of Nevada for said pardons and parole commissions.

Chairman ROTH. I would point out to you, Mr. Hanley of course, that this subcommittee has no jurisdiction over the State matters, so that they will be bound, whatever agreement has already been entered into between yourself and them.

Mr. HANLEY. That is all I would like the record to reflect, Mr. Chairman, is that the original agreement, LV79HEC41 be adhered to by the State in regard to these matters now before the subcommittee that is derived from the direct evidence and testimony of that court action and those investigations.

Chairman ROTH. Again, let me say that we are not in a position to speak for the State authorities but, of course, any agreement that you have entered into as it applies to these hearings would be appropriate under those circumstances. But I want to make it very clear to you that what you say will be part of this record, and while it is not our intent to go before any parole board, we cannot speak for others.

Mr. HANLEY. Mr. Chairman, this was a Federal ruling and a Federal Court by the Honorable Harry E. Clayburn.

Chairman ROTH. Let me just again say whatever that agreement is it applies to the extent its terms apply. But we are not in the position here to extend it. And beyond that, as we said, we take——

Mr. HANLEY. Then I will respectfully request, Mr. Chairman, that I defer from reading this statement until such time as some type of agreement can be adhered to reflected in the original record of LV-79 as I have been subjected already because of attacks by the FBI, including death threats, and various other nefarious acts by the strike force which has subjected me to undue degradation.

If I intend to help this subcommittee in any circumstances or any portions of this hearing, then I want some kind of assurance that I am not going to be further subjected to this type of degradation. I am not going to go forward and waive my fifth amendment rights unless I have some kind of assurance that is going to be adhered to. I have not appeared here with an attorney because I want to help the subcommittee and I want to go forward and to set the record straight in these matters.

But because of the lies that were told me to by Jeffery Anderson, strike force in Las Vegas, Nev., at the time of my evidentiary hearing and wherein I did not divulge the bombing cases before the State court, I have been subjected to undue degradation which subjects me to no appealable record before the honorable court in Nevada. If I am going to preserve anything and have anything future anywhere down the line, I am going to have to respectfully decline it.

Mr. **Weiland**. Mr. Hanley, if I may, as I understand it, what you are asking for is to make a part of this record the agreement that you have previously entered into and which was a part of the record in the Federal Court in Nevada. Is that correct?

Mr. **Hanley**. That is part of the record in the Federal Court as I stated here unequivocally.

Mr. **Weiland**. The chairman has said we certainly have no objection to making that a part of this record and as we have told you we appreciate your cooperation with the subcommittee and would like to elicit testimony from you. Whatever the terms of that agreement are I am sure that they will continue to be abided by the parties. As I have told you and the chairman has told you we will certainly make that agreement part of this record.

Mr. **Hanley**. Do you have counsel that could advise me on this?

Mr. **Weiland**. You have your own counsel, Mr. Hanley, and we have made him available to you by telephone.

Mr. **Hanley**. My counsel told me last night that I had to have this record adhered to. I need some counsel, immediate counsel, to tell me that what you are saying is binding and will not be used against me at a further date.

Mr. **Weiland**. We can't do that, except to say that we can make that agreement a part of this record. We have given you time to talk to your counsel, told your counsel that he can attempt to secure counsel for you here in Washington. He failed to do so. Now we can proceed as planned or we can recess.

Mr. **Hanley**. I have no assurances that this record that I spoke for hereon today will not be used against me at a later date because I am not that expert in the law as you are well aware. I am a layman. I need advice if this record could be used against me at a later date. I want to help the subcommittee in every way that I can and I have made that evident. As you know I have tried to use my first amendment rights and appear before the press here in public but because of liabilities that could not be done. And I understand that.

But if I am going to have to be subjected to later degradation because of my aid and assistance to the Government and the honorable subcommittee here I am going to have to abstain from answering any questions or reading a statement.

Chairman **Roth**. Mr. Hanley, let me make very clear that the matter you are testifying on has been discussed with you and you have the right to an attorney. You chose not to bring him. Now you are telling us that unless we agree to some agreement which we are not familiar with that you won't testify. We are going to have your testimony, Mr. Hanley. We may not have it today but we will have it later. If you choose not to testify today, then we will get together with you and your attorney to clarify the situation.

But I can assure you whether it has to be under subpena or otherwise we will have you here to testify.

Mr. HANLEY. No disrespect intended, Mr. Chairman.

Chairman ROTH. Mr. Hanley, as I understand it, what you are testifying to today has been said under immunity in the past.

Mr. HANLEY. Yes; it has been, Mr. Chairman.

Chairman ROTH. But I think under the circumstances since you just bring up this agreement which my attorneys are not familiar with, what we will do is dispense with the hearings today and reschedule them. In the meantime we will have our attorneys get in contact with yours.

Mr. HANLEY. Mr. Chairman, Mr. Weiland was informed of the agreement.

Chairman ROTH. Yes; but let me make very clear right now that there was no such condition laid down, that just came up as I understand it from Mr. Weiland, a few minutes ago.

Mr. HANLEY. Last night.

Chairman ROTH. In any event, we will dispense with your testimony temporarily to work out any problems that may remain. But we will take steps, whatever they have to be, to bring you back to hear your testimony.

Mr. HANLEY. Yes, sir. Mr. Chairman, if I might, at this time also reflect that in the past my first amendment rights have been obstructed and abridged wherein I was not able to meet timely with various media people. That has been done under security precautions. If at a future date we are going to have my testimony here and subpena, I would greatly appreciate the subcommittee's help in expediting the matters for the media wherein they can timely interview me and subject me to various questions that the media would like.

Chairman ROTH. I would just say that we think you have some important things to say. We want them said on the record here at this meeting. You are entitled to have counsel if you so choose alongside you. But in any event, we will proceed expeditiously to hear your testimony in the near future.

Mr. HANLEY. I appreciate it, Mr. Chairman. I am sorry to have importuned the subcommittee.

Chairman ROTH. The room again will be cleared.

[Discussion off the record.]

Chairman ROTH. The subcommittee will reconvene.

I would just like to point out for purposes of the record that this witness brought up this problem at the last moment. I do want to be fair and insure that the rights of any witnesses are protected and for that reason have agreed to a delay. But the testimony that he has submitted in his prepared statement is of great significance, of great importance. We intend to secure that testimony at a later date after we have had the opportunity to talk with his attorney. I would just like to say that certain statements were made by this witness which we have no reason to think are of fact.

He points out that Mr. Anderson, who is head of a strike force, didn't comply with that. I think the record ought to be clear that there is no evidence that that is the case.

We will recess the subcommittee until tomorrow morning.[1]

[Members present at the time of recess: Senators Roth and Rudman.]

[Whereupon, at 11:30 a.m. the hearing was adjourned, to reconvene at 10 a.m., Wednesday, September 29, 1982.]

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[1] See p. 143 for prepared staff statement concerning Gramby Andrew Hanley.

HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

WEDNESDAY, SEPTEMBER 29, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. Warren B. Rudman presiding.

Member of the subcommittee present: Senator Warren B. Rudman, Republican, Delaware.

Members of the professional staff present: S. Cass Weiland, chief counsel for the majority; Eleanore J. Hill, chief counsel to the minority; Katherine Bidden, chief clerk; Chuck Morley, chief investigator to the majority; Howard Shapiro, Rod Smith, and Barbara Jeanne Cart, staff counsels; John Sopko, assistant counsel to the minority; Dave Faulkner, detailed investigator from the Federal Bureau of Investigation; and Sarah Presgrave, executive secretary to the chief counsel of the majority.

[Member present at time of convening: Senator Rudman.]

Senator RUDMAN. The subcommittee will be in order.

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on the Hotel Employees and Restaurant Employees International Union, to be held on September 28, 29, and 30, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.
SAM NUNN,
Ranking Minority Member.

Senator RUDMAN. The first witnesses this morning will be staff members David Faulkner and Howard Shapiro.

Mr. Faulkner, you have already had the oath administered. Mr. Shapiro, I believe you have not. So I will administer the oath.

Raise your right hand.

Do you swear the testimony you are about to give during the course of this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SHAPIRO. I do.

TESTIMONY OF DAVID FAULKNER, INVESTIGATOR, AND HOWARD SHAPIRO, STAFF COUNSEL, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Senator RUDMAN. You may proceed.

Mr. FAULKNER. Thank you, Mr. Chairman.

Seated with me is Howard Shapiro, staff counsel for the Permanent Subcommittee on Investigations.

The subcommittee's investigation of Hotel Employees and Restaurant Employees International Union Local 30 in San Diego has attempted to determine whether this local has been adequately protecting the interests of its rank and file membership.

Information gathered by the subcommittee raises significant questions about the performance of the local and indicates that the international union is again exerting substantial control over the affairs of the local, although it is doing so without resorting to the use of trusteeships or mergers.

The subcommittee, through interviews in San Diego and a review of local 30's books and records, has seen evidence that:

Organizing efforts have been ineffective despite substantially greater expenditures in this area. Even though additional organizers have been on the job and the international union has periodically sent an organizing subsidy to local 30, few houses have been added. One large hotel has decertified the union and other hotels have broken with the employers council and negotiated very favorable contracts on their own.

Local 30 was experiencing financial difficulties in 1980 and was in serious financial straits in mid-1981, and the Permanent Subcommittee on Investigations has been told that some of the underlying causes were avoidable. These causes include added costs for salaries that may be unjustifiable, higher legal expenses associated with grievance arbitration proceedings, and insurance rates which may be excessive.

An international audit of local 30 completed in December 1981, attributes the local's cash loss that year to excessive legal and accounting fees. There is also substantial evidence that not all dues were collected.

For instance, in the third quarter of 1981, the local added just over 200 members. However, approximately $4,000 less was collected in dues compared to the previous quarter. At one point in 1981 the executive board of the local decided not to send a delegation to the international convention due to the local's lack of funds, which caused an inability to make a monthly per capita payment of approximately $11,000 to the international.

This payment is a prerequisite to attendance at the convention. Subsequently, the international agreed to loan the per capita tax for 1 month so local 30 could attend the convention. According to the local's financial statements, the general fund balance dropped from $77,881 in January 1980, to $5,732 in July 1981. Several persons have told us that the local's financial books are not made available to members for review.

According to U.S. Department of Labor correspondence, local 30's required annual financial report for 1981, due in March, had not been received as of the middle of August. It should be noted that the general fund balance has increased significantly in recent months coinciding with increased use of a dues checkoff system by employers.

During a recent election of officers wherein a slate of candidates allegedly chosen by international vice president Herbert Schiffman and the international union was elected, the leadership got out the vote among Mexican/American members by hiring a Spanish-speaking business agent who was not previously with the union. Although the local may have as many as 50 percent Mexican/American members, this was apparently the first time a Spanish speaker had been hired as a local employee. Several persons, including Thomas Neblett, who has represented hotels in San Diego since 1951 and is currently director of the San Diego Hotel and Restaurant Association, have told the Permanent Subcommittee on Investigations that the international was prepared to impose a trusteeship if the election did not come out right, or if Herbert Schiffman's control of the union was upset in some other fashion.

The subcommittee ran into the same sort of information-gathering problems in San Diego as it has elsewhere in this investigation. Several individuals whom we believe have first-hand knowledge of the local's operations either refused to speak to the subcommittee or asserted their fifth amendment privilege. Other persons, usually members of the local, were willing to speak to us but only if their names were not used. One individual told us that local 30 employees were warned by the current secretary-treasurer, Marco LiMandri, to say nothing to two subcommittee staff members who visited San Diego in early August.

Most of the events causing concern began with the arrival of Herbert Schiffman in San Diego in 1979.

Mr. Schiffman previously handled labor matters for HEREIU in, among other locations, Miami and Atlanta. He was convicted in Federal court in Atlanta in 1976 of accepting gratuities from management personnel, and for background purposes, I would like to include in the hearing record a copy of Mr. Schiffman's criminal record and a copy of a trade magazine article concerning Mr. Schiffman.

Senator RUDMAN. Without objection, they will be so entered.

[The documents referred to were marked "Exhibit No. 2" for reference, and follow:]

EXHIBIT NO. 2

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
Dept of Pub Safety Miami FL	Herbert David Schiffman 60-1467148835	12-14-60	vag by gambling	
USM Miami FL	Herbert David Schiffman 5093 7767	2-3-70	interference with commerce by threats Hobbs Act	dism 6-26-70
PD Miami FL	Herbert David Schiffman A-58457	11-18-70	1. indecent lang 2. obstr officer	dism 1-13-71 dism 1-13-71
USM Miami FL	Herbert David Schiffman 16554	11-25-75	bribery	
USM Atlanta GA	Herbert David Schiffman 29380	9-14-76	viol of Labor Laws 29 USC 186	3-0-0prob
USM Cincinnati OH	Herbert David Schiffman 00163-061	4-9-79	conspiracy embezzlement of Union Funds	

New South:

"The employees really blew 'em out of the water!"

The man who engineered the recent election defeat of H&RE&BIU's Local 737 at the 1,000-room Orlando Hyatt House was pleased.

"It was one of the most devastating rejections of this union by employees ever in the South," he mused, noting the 305-62 vote against the union. "It was important for the employees to reject them soundly to discourage the union from coming back."

A stunning defeat, ironically inflicted outside the gates of Disney World where a few years earlier the same local had proudly organized the Contemporary Hotel.

The lesson of Orlando is clear: the New South has the action and bright promise that H&RE&BIU wants and needs, but so far cannot have.

The Sunbelt is the fastest growing region in the country. It lures migrating families and expanding businesses with cheap labor, tax abatements, low-cost financing, plenty of land, energy and raw materials.

Politically, the 13-state Southern bloc comprises 145 of a total 538 U.S. electoral votes, a major attraction to the politically active H&RE&BIU. The region may soon assume even greater political significance: the election of Georgia's former Governor Jimmy Carter in November would assure the continued prosperity of the New South for the next four, possibly the next eight, years.

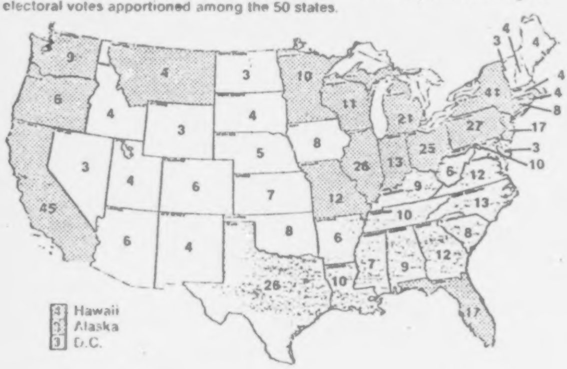
As governor, Carter once said that he would not want to wipe out state right-to-work laws that forbid employer-union contracts requiring all workers to join a union. Now, in words that soothe labor leaders but disturb Southern business executives, Carter says that as President he would not advocate a repeal of right-to-work laws—he would just sign the repeal if Congress passes it.

All of this spells opportunity for Ed Hanley, but he'll find the ground hard in the traditionally anti-labor South. Cultivating it will require a fresh, modern organizing approach if he is to recoup the 5% drop in membership H&RE&BIU has suffered nationally in the past two years.

It won't be easy. The New South presents a solid anti-union front, stretching across 13 states from Virginia south to Florida and west to Texas. Consider:

SUNBELT: UNION'S FINAL FRONTIER

States with heaviest concentration of H&RE&BIU membership, also showing 538 electoral votes apportioned among the 50 states.



Staunchly anti-union, the New South is H&RE&BIU's final frontier. With only 4% of its membership in the South, H&RE&BIU may find more fertile ground in the 13-state bloc than in any other region. Politically significant, the New South controls 145 electoral votes, and union campaign contributions have been pouring into the coffers of Southern politicians. The election of Georgia's Jimmy Carter, endorsed by big labor and H&RE&BIU, could presage the repeal of some right-to-work laws and open the floodgates to unionism. With 12,000 members in the state, Florida is the H&RE&BIU Southern stronghold. Miami Local 355, biggest and most powerful hotel union in the region, is led by Herbert "Pinky" Schiffman. Recently convicted of violating federal labor laws, Schiffman may—or may not—figure in the union's "Southern strategy" to organize culinary workers. The South is certain it can repulse a major organizing drive. "I do not envision the hotel union advancing in membership to any great degree in this part of the country," says one local observer.

THE NEW SOUTH

	Tex.	N.C.	Fla.	Ga.	Va.	La.	Tenn.	Ala.	Ky.	S.C.	Miss.	Ark.	W.Va.	Regional Total	U.S. Total
Electoral votes	26	13	17	12	12	10	10	9	9	8	7	6	6	145	538
H&RE&BIU locals[1]	8	2	3	4	3	2	5	1	4	2	1	1	2	38	313[3]
H&RE&BIU members[2]	887	77	11,870	1,349	991	932	549	216	643	173	40	216	535	18,478	435,959[4]
Right-to-work	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	11	20

Source: Hotel & Restaurant Employees and Bartender's Int'l. Union [1] as of 1/1/76 [2] 1975 avg. [3] includes 26 Canadian locals [4] includes 28,768 Canadian members

the final front

11 of the nation's 20 right-to-work states are in the South;

Only 4% of H&RE&BIU's total membership and only 38 of its 313 locals are in the South;

Only one of H&RE&BIU's 10 largest locals is in the South and that one, Miami Local 355, accounts for over half of all Southern membership;

The entire state of Georgia has only four locals with an average 1975 membership of 1,349 employees, most of those in Atlanta;

Mississippi has only one local with 40 members.

In seven of the 13 Southern states, no hotels of significance are unionized. And except for Miami, no Southern city has even noticeable union representation. For example:

Atlanta has only one luxury hotel under contract, the Hyatt Regency;

New Orleans has only one unionized hotel of significance;

Dallas, Houston, San Antonio and Austin have none.

If the New South is the country's brightest frontier, it is also the union's final one. The Southern bloc represents the last big chunk of non-union real estate in the country. Whatever Hanley's "Southern strategy," its success will require modern organizational support from the union's Miami stronghold—the kind of sophisticated support equal to the challenge of the New South but which the local leadership may be ill equipped to deliver.

When Miami Local 355 President Herbert "Pinky" Schiffman got his start in the late '40s and early '50s as a bartender and waiter in New York and Miami Beach, his persuasive tactics were right in style. "Knee-busting" was fashionable.

Schiffman rose through the ranks, from business agent to president in eight years. Since 1961, his first year as president, he has doubled the membership of his local to 10,000 unionized employees in 50 Miami hotels—the ninth largest local in the country and the union's only foothold in the South.

Continued on page 58.

Herbert "Pinky" Schiffman, president, Miami Local 355.

UNIONS

Continued from page 39.

Schiffman's tireless efforts were rewarded: he was appointed vice president at large of the international union in January 1973 (and reelected to that post last May).

That June, his buttons bustin', the newly elected international vice president rolled into Atlanta. Hand-picked by International President Ed Hanley, himself elected only a few months earlier, Schiffman had been dispatched to lead an intense organizing drive on the city's non-union hotels.

For Schiffman it would be business as usual, and why not? Hadn't H&RE&BIU contributed $10,000 to the 1973 election campaign of Mayor Maynard Jackson? Hadn't the union organized the only luxury hotel of significance in the city, the Hyatt Regency Atlanta? And hadn't Schiffman demonstrated in Miami that being tough with management paid off?

But within three weeks, Scniffman would make a mistake—an indiscretion beneath the dignity of an international union v.p., a blemish on an accomplished record.

Schiffman selected the Hyatt Regency Atlanta as headquarters for an organizing drive on the nearby Stouffer's Inn.

First things first. Schiffman needed a conquest to announce his arrival in Atlanta and to instruct his weak-kneed brothers in Local 151 how to talk tough with management.

He began negotiations with Hyatt Regency General Manager David Botbol for room discounts, an arrangement that would continue from June 21, 1973, to April 13, 1974, when a new general manager would blow the whistle.

On Nov. 19, 1975, Schiffman was indicted by a federal grand jury in Atlanta for "unlawfully, willfully, and knowingly requesting, demanding, receiving and accepting . . . a thing of value, to wit: a discounted hotel room rate amounting to approximately $1,425 from the Regency Hyatt House."

A discounted room! A lousy misdemeanor! But the kind of old-fashioned bungling that an international union on its best behavior no longer needed nor could afford.

Eight months passed between Schiffman's indictment in November 1975 and his trial in July 1976. Schiffman was back in Miami preparing for his upcoming reelection as local president and tending to local business.

The union pondered its options. One possible solution might have been a Miller-style retirement. Past International President Ed Miller retired in 1973 with full honors and a $27,000 Rolls Royce from an appreciative union; he remains on the international payroll as general president emeritus and for the past two years has received an average annual disbursement of $65,000.

In July 1976, H&RE&BIU General Counsel Jack Reynolds flew to Atlanta to defend Schiffman. A Chicago attorney, Reynolds had a successful legal record with management.

"Reynolds was one of the best labor attorneys in the country, absolutely dynamic," believes one knowledgeable source.

In addition to sending its heavy artillery to Atlanta for a mere misdemeanor trial, the union also secured competent local counsel.

Reynolds led the defense, but his performance in the Southern courtroom did not match his reputation.

Possibly everything that followed was merely unfortunate coincidence for Schiffman.

The defense called two witnesses. One, a local hotel manager, testified that he himself had given rates to unions but that they had been commercial rates, not special ones.

A government witness, David Botbol, the Hyatt Regency general manager (no longer with Hyatt), testified that Schiffman had asked for a rate and was quoted $20 a day. Schiffman negotiated downward and settled on $16 a day.

Nothing in Botbol's testimony implied that Schiffman had pressured him for the rate. Botbol implied that it was within the manager's discretion to give any rate he saw fit—though he had not given a $16-per-day rate to anyone else.

"Schiffman received $50 per day when he was away from headquarters in Miami," the government prosecutor shot back. "Every dollar he got in discounted room rates was a dollar in his pocket, and a dollar in his pocket was a thing of value."

Testifying as a reluctant witness for the government, General Secretary-Treasurer John Gibson delivered crucial testimony. A bristling Gibson snapped that of course the union did not encourage its officials to accept room discounts or anything else of value from employers. To do so, Gibson said, was illegal.

The trial concluded in two days, yet the enigmatic record of the Pinky Schiffman case is laced with questions—questions which have not been and may never be satisfactorily answered.

On July 9, 1976, Schiffman was convicted and reelected president of his local a few weeks later. His sentencing has been postponed, pending a motion for a new trial. □

Mr. **Faulkner.** Mr. Schiffman arrived in San Diego in late 1979, apparently on the orders of the international union and, according to a number of persons interviewed by the subcommittee, he has effectively controlled the local since that time.

The subcommittee has been told that, among other actions, Mr. Schiffman has engineered significant changes in local 30's bylaws, in particular, removing the requirement that the membership ratify new contracts.

Senator **Rudman.** I wonder if you might at this point respond to a question, Mr. Faulkner. Could you tell us about the significance of these bylaw changes which I understand you have reviewed personally and we might even insert part of that into the record at this time?

Mr. **Faulkner.** Yes, sir. We did do that.

[The information referred to above, indicating the section of local 30's former bylaws, which pertains to ratification, was marked as "Exhibit No. 3," for reference, and follows:]

Exhibit No. 3

Article XXIII

AUTHORIZATION FOR BARGAINING DEMANDS, AUTHORIZATION FOR STRIKES, AND RATIFICATION OF CONTRACTS

Section 1. The union shall obtain authorization for pattern bargaining demands to be made upon the employer or employers.

Section 2. No strike shall be authorized to obtain those pattern bargaining demands unless the members of the union authorize such a strike by majority vote at a general or special meeting, after reasonable notice of intention to vote upon the question.

Section 3. All contract proposals shall, before their presentation, negotiation, enforcement, or renewal, be approved by the Joint Board or Local 30 Executive Board and ratified by the General membership at a regular membership meeting.

Mr. **Faulkner.** The significance is to the effect that the membership does not know the contract under which they are working and operating as members of the local 30. They have no mechanism by which they can review that contract. In fact, we were told that for some months after this contract was in effect these members had no idea what the terms of the contract were, they made efforts to find out, to no avail, and that certain persons that were assisting these members and trying to find this information were shocked to find that there was no requirement that they have the opportunity to review these contracts.

Senator **Rudman.** There was, I take it, at one time, a requirement in the bylaws that the membership ratify new contracts and that requirement was specifically changed?

Mr. **Faulkner.** That is correct, sir; yes.

Senator **Rudman.** When was that changed?

Mr. **Faulkner.** Do you have that date?

Mr. **Shapiro.** We don't have the exact date. We do have a copy of the bylaws showing the ratification clause as of 1975. The most current copy of the bylaws is dated August 1980. So it was at some point between those two dates; and we have been told by several persons it was after Mr. Schiffman's arrival.

Senator **Rudman.** So the bylaw changes occurred coincident to Mr. Schiffman's arrival, shortly after, or within a year.

You do have those changes, you do have copies of the latest bylaws which will substantiate what you say?

Mr. **Shapiro**. We have copies of both previous bylaws and current bylaws.

Senator **Rudman**. I take it at this point we will insert both those in the record.

Mr. **Faulkner**. Yes, sir.

[The material referred to was marked as "Exhibit No. 4," for reference, and is retained in the files of the subcommittee.]

Mr. **Faulkner**. Again, Mr. Schiffman negotiated at least two major contracts with hotels in the San Diego area whose wage and/or benefits scales have ben criticized; Negotiated at least two hotel contracts which place local 30's health and welfare plan into the international union's plan—I would point out that this appears to be a primary concern and goal of the international union; controlled the hiring of friends and allies of the local regardless of qualifications; and failed to effectively organize new union shops.

Although many persons interviewed by the subcommittee said that the local's membership has declined in recent years, membership figures provided by the local in their monthly per capita report to the international show a slight increase in membership over the past 2½ years, with approximately 100 more members in March 1982, than in March 1980.

Loretta Proctor has been associated with local 30 for over 20 years, and she had been secretary-treasurer, the chief officer of the local, when Mr. Schiffman arrived. I would like to place into the record and quote from a letter of resignation sent to the international union in April 1981 by Ms. Proctor:

> I hereby submit my resignation as secretary-treasurer of local 30 located in San Diego, Calif. I cannot work under the prevailing circumstances. I feel I have been divested of my rightful authority as secretary-treasurer of this local union. It was my understanding that Mr. Herbert Schiffman was sent to local 30 to organize nonunion establishments and to negotiate contracts. The grievances Mr. Schiffman and Mr. Tobin are bringing in from my contract houses and which are being referred to our attorney of records to handle have run up the attorney billings in such amounts that local 30's financial condition makes it impossible to pay. I feel in most cases the business agents should be able to settle the grievances without taking them to the attorney to arbitrate . . . I have received reports from businessmen that Mr. Schiffman has been in their places of business loudly making derogatory remarks about local 30 and its officers. This is part of the reason I find I am unable to continue in the office of secretary-treasurer of local 30.

Six days after this letter was written, a second letter was sent, rescinding the resignation. This letter states:

> I withdraw my resignation as secretary-treasurer of local 30. Instead, I charge Herbert Schiffman with interference, intimidation, coercion, undermining, and overriding me and my office as secretary-treasurer. . . . By his attitude, conduct, and complete disregard and disrespect for me and my office, he has done great personal damage to me and severe harm to the office of secretary-treasurer and local 30.

More recently, the subcommittee received a letter from Ms. Proctor's attorney offering a belated explanation for the resignation letter, which I would also like to place in the hearing record. This letter states that:

> The letters were emotional reactions to this feeling. She sees it now, in retrospect, as a lapse of communication between Mr. Schiffman and herself. Once they had finally gotten together and objectively discussed matters, they each found that there really was no dispute and that they were working toward common goals.

[The letters referred to was marked as "Exhibit No. 5," for reference, as follow:]

EXHIBIT NO. 5

**Hotel and Restaurant Employees
and Bartenders Union of San Diego**

Local No. 30

2876 El Cajon Blvd. • San Diego, CA 92104

General Office Telephone
283-6575

SUBORDINATE TO
AND RESTAURANT EMPLOYEES AND BARTENDERS
INTERNATIONAL UNION

OFFICE OF THE SECRETARY-TREASURER
LORETTA PROCTOR

AFFILIATED WITH
AMERICAN FEDERATION OF LABOR
STATE FEDERATION OF LABOR
STATE CULINARY ALLIANCE
SAN DIEGO CENTRAL LABOR COUNCIL
UNION LABEL & SERVICE TRADES COUNCIL

April 3, 1981

Edward T. Hanley, General President
Hotel and Restaurant Employees
and Bartenders International Union
120 East Fourth Street, Suite 1300
Cincinnati, Ohio 45202

Dear Sir and Brother:

I hereby submit my resignation as Secretary-Treasurer of Local 30 located in San Diego, California. I cannot work under the prevailing circumstances. I feel I have been divested of my rightful authority as Secretary-Treasurer of this Local Union.

It was my understanding that Mr. Herbert Schiffman was sent to Local 30 to organize non-union establishments and to negotiate contracts. The grievances Mr. Schiffman and Mr. Tobin are bringing in from my contract houses and which are being referred to our attorney of record to handle have run up the attorney billings in such amounts that Local 30's financial condition makes it impossible to pay. I feel in most cases the Business Agents should be able to settle the grievances without taking them to the attorney to arbitrate.

I have always defended the Local and am proud to have been a member for forty years. Twenty-one of those years being an officer or Business Agent. I feel it is my responsibility to advise you of some of the circumstances here in San Diego. I have received reports from businessmen that Mr. Schiffman has been in their places of business loudly making derogatory remarks about Local 30 and its officers. This is part of the reason I find I am unable to continue in the office of Secretary-Treasurer of Local 30.

I respeccfully request that an International auditor make a complete audit of Local 30 funds before May 1, 1981.

With best wishes, I remain

Fraternally yours,

Loretta Proctor
Loretta Proctor
Secretary-Treasurer

ENCL (2)

LP/mh
opeiu-139
afl-cio
cc: John Gibson,
John C. Kenneally Herman Leavitt

Hotel and Restaurant Employees
and Bartenders Union of San Diego
Local No. 30
2876 El Cajon Blvd. • San Diego, CA 92104

General Office Telephone
283-6575

SUBORDINATE TO
HOTEL AND RESTAURANT EMPLOYEES AND BARTENDERS
INTERNATIONAL UNION

OFFICE OF THE SECRETARY-TREASURER
LORETTA PROCTOR

AFFILIATED WITH
AMERICAN FEDERATION OF LABOR
STATE FEDERATION OF LABOR
STATE CULINARY ALLIANCE
SAN DIEGO CENTRAL LABOR COUNCIL
UNION LABEL & SERVICE TRADES COUNCIL

April 9, 1981

To the Executive Board of Local #30

After further consideration of my letter to the International President, Edward T. Hanley, dated April 3, 1981, I withdraw my resignation as Secretary-Treasurer of Local #30. Instead, I charge Herbert Schiffman with interference, intimidation, coercion, undermining and overriding me and my office as Secretary-Treasurer.

Since he was sent here to organize the unorganized, why does he not get on with it instead of taking over the functions of my office, which he has done.

He was snet here to negotiate the contract which is over and done with for which we are grateful.

By his attitude, conduct and complete disregard and disrespect for me and my office, he has done great personal damage to me and severe harm to the office of Secretary-Treasurer and Local #30.

I ask that you permit me to withdraw my resignation and declare it of no effect and to continue me in my office for the elected term.

I will appeal to the International President for any help he will give in resolving all difficulties.

Fraternally

Loretta Proctor

LP/rc
opeiu 139
afl-cio,clc

Robert Ferrez, Pres.

Thelma Tully, Vice Pres.

Manly C. Bray, E. Bd.

Pete Carrasco, E. Bd.

Carlos Cruz, E. Bd.

Tillery F. Pittman, E. Bd.

Junel Morgan, Rec. Sec'y

Lucille Santos, E. Bd.

ENCL (6)

EXHIBIT NO. 5

VICTOR S. ERIKSEN
attorney at law

1067 Front Street
San Diego, California 92101
(714) 236-1151

August 18, 1982

PERM. SUBCOMMITTEE
RECEIVED
SEP 10 1982
ON INVEST [illegible]

S. Cass Weiland, Chief Counsel
Senate Permanent Subcommittee
on Investigations
Washington, D. C. 20510

Re: Ms. Loretta Proctor
Former Secretary/Treasurer,
San Diego Local 30 of
The Hotel Employees and Restaurant
Employees International Union

Dear Mr. Weiland:

Subsequent to the deposition on August 6, 1982, Ms. Proctor located copies of her letter of resignation dated April 3, 1981, and letter withdrawing that resignation dated April 9, 1981. Ms. Proctor has instructed me to forward copies of these letters to your office. Those copies are enclosed.

In looking back on these letters, Ms. Proctor offers some explanation. At the time, she felt Mr. Schiffman, perhaps even the International, was finding fault with the manner in which she was carrying out her responsibilities of office. She felt offended inasmuch as she felt she was being bypassed and ignored. The letters were emotional reactions to this feeling. She sees it now, in retrospect, as a lapse of communication between Mr. Schiffman and herself. Once they had finally gotten together and objectively discussed matters, they each found that there really was no dispute and that they were working toward common goals. The air cleared of misundertanding, they have worked together compatibly ever since, each carrying out his/her respective functions.

Very truly yours,

Vic Eriksen

VICTOR S. ERIKSEN

VSE/wm

APPROVED AS TO CONTENT:

Loretta Proctor

LORETTA PROCTOR

Mr. **Faulkner.** However, several persons interviewed by the subcommittee stated that Ms. Proctor was indeed bothered by Mr. Schiffman's de facto control of the union. The subcommittee has also been told that an agreement may have been reached to have Ms. Proctor stay on as secretary-treasurer until the scheduled April 1982 elections, which resulted in the election of a successor, allegedly handpicked by Mr. Schiffman and the international, Marco LiMandri. At this time, Ms. Proctor is the elected president of the local. She has stated that she herself picked Marco LiMandri to succeed her and denied staying on as secretary-treasurer just until Marco had enough tenure to run for office.

Marco LiMandri is a former bail bondsman. He is the son of Joe LiMandri, a retired local 30 business agent who is also, according to law enforcement reports and other accounts, a member of La Cosa Nostra in California. Persons interviewed by the subcommittee have stated that Joe LiMandri, before his retirement in 1981, had for years collected an annual union salary between $15,000 and $20,000 despite doing little or no work and spending most of each working day playing cards at the Stardust Hotel.

In addition, questions have been raised to the effect that extra work hours have been credited to LiMandri for pension purposes over the years.

This matter was brought to the attention of Schiffman and Proctor by another business agent who was fired shortly thereafter.

Allegations have been made that Joe's son Marco was hired as a business agent, with no previous experience or background, just in time to fulfill an employment requirement to hold office. It has also been stated that LiMandri has caused the hiring of social acquaintances of questionable qualifications including Nancy Browning and Nancy Scaccio.

John LiMandri, brother of Joe and uncle to Marco, is the insurance broker for local 30's building and automobile coverage, and the subcommittee has been told that this coverage has been contracted on a no-bid, prepaid, inflated price arrangement.

The executive board's minutes of October 6, 1981 state: "The board feels that we have been paying excessive insurance premiums." Marco LiMandri also serves as a trustee of the local's pension fund. Through counsel, both Marco LiMandri and Nancy Browning have refused to be interviewed voluntarily.

The subcommittee will receive testimony from Rachel Craft, a former local 30 employee. Another local 30 member, Thelma Tully, has provided the subcommittee with a sworn affidavit which I would like to place in the hearing record.

Senator **Rudman.** The affidavit will be placed in the record at this point, without objection.

[The document referred to was marked as "Exhibit No. 6," for reference, and follow:]

EXHIBIT NO. 6

AFFIDAVIT

My name is Thelma Tully. I have been a member of Local 30 and its predecessor, Local 402 for over 30 years. I was elected Vice-President of the Local in 1979 and I remained in this position until the April, 1982 elections, when I was replaced by Ray Lombardo. ~~[illegible]~~ T.T. I was also a Trustee of the Union, I served on the Local's Executive Board. I would point out that after 30 years in the union, my monthly pension stands at $41.60 and this is only guaranteed for 4-5 years.

During the past few years I have seen the financial condition of Local 30 deteriorate, and although I may not know all of the reasons for this, I believe I know some of them.

There have been instances where business agents have not collected dues from union members. Specifically, I know that retired Business Agent Joe LiMandri did not collect all dues in his assigned shops, since his replacement agent told me she discovered this to be the case after she picked up LiMandri's shops. This was not surprising to me since Joe LiMandri spent most of his so-called working time at the Stardust Hotel playing cards. I also believe that Local 30 lost the Westgate Hotel as a union house because of his lack of attention. Further, Joe LiMandri's work hours were falsely increased on the Local's records to inflate his pension, and I think he received some ~~[illegible]~~ T.T. checks from the Local even after he retired.

The Local's cash flow problem was also affected by increased wages for the business agents. At one point in early 1981 the cash problem was so great that the Local could not pay its monthly per capita tax to the International. Dues are increased every year but the bulk of these increases go to the International.

I feel that Ed Hanley would love to merge all Locals' pension and health and welfare funds and although Local 30's trustees won't agree to this now this may change as long as Marco LiMandri is Secretary-Treasurer, which he will be for lots of years. If the April election had gone against the LiMandri slate, I think the

International would have placed the Local in trusteeship and merged the funds unilaterally.

Although Marco LiMandri is now Secretary-Treasurer, Herbert Schiffman runs the Local. At meetings, whenever a question is asked Mr. LiMandri confers with Mr. Schiffman before responding. If Mr. Schiffman is not there Mr. LiMandri often calls him at his home in Palm Springs. I'll bet that the Local's phone bill to Palm Springs is sky high.

Joe LiMandri's brother, John LiMandri, handles Local 30's automobile and building insurance at the Fordham Insurance Agency. There has never been any competition for this coverage and I believe that the rates are inflated. I cannot remember this insurance coverage ever being brought up before the Executive Board. Former Secretary-Treasurer Joe Tinch originally obtained this insurance, and his successor, Loretta Proctor renewed it and broadened the coverage. Several persons pushed Ms. Proctor to get bids for this insurance, but this wasn't done. When the large premium checks were questioned, Ms. Proctor said that Fordham also handles her own personal insurance.

Under the Local's plan, business agents and other officers supposedly have their personal autos insured by the union. Several persons I know compared insurance rates and found that the local was paying more than necessary. I know that when one business agent left the local, the Executive Board asked for an accounting of her expenses and found that $700 was being paid per year for car insurance, which is much more than rates obtainable elsewhere. I also know one business agent who needed a sticker showing insurance coverage before she could drive on to a Navy base. She tried, but could not get a sticker. She finally got a short written statement of coverage signed by John LiMandri of Fordham Insurance. I know another business agent who had several accidents, but was never able to collect on the Fordham policy. He eventually paid for repairs out of his own pocket. As a matter of fact, I don't know anyone who has ever collected a claim on this policy.

Although there is a by-law committee of five persons set up to change the by-laws if necessary, Mr. Schiffman also controls this. I know that he confers

Page 3 (MS. PROCTOR TOLD ME THEY WERE UPSTAIRS ALL NITE WITH THE LAWYER - WORKING ON BY LAWS -) T.T.

with Jack Kenneally of the International Union to discuss changes, and the other four members of the committee just sign off on what they decide. The one major change made since 1975 is the deletion of the ratification requirement for collective bargaining agreements.

I believe that Herbert Schiffman's presence in San Diego is a decision made solely by the International Union, and this also goes for Jim Tobin and Leonard Bergel, who are supposedly organizers. All three of them campaigned for the LiMandri slate in the elections earlier this year, by going from house to house. This is bad since members are given the impression that voting against their choice is voting against the International, and you don't go against the International.

Despite their presence Local 30 is losing more union houses than they are gaining. One large union house, the Westgate Hotel, decertified. Other older hotels have gone out of business. There has basically been no organizing for quite a while. In the one house where a big push was made, management has not signed one as yet. The four business agents for the Local don't do any work ON WEEK ENDS T.T. - they just play. I would estimate that Local 30 is losing 100-~~500~~ 200 T.T. members per month. More than half of Local 30's members are Mexican, however, only one business agent speaks spanish, and he is new.

Thelma Tully
Thelma Tully

Sworn to and subscribed before me
this 23rd day of September, 1982.

Notary Public

Gloria J. Salvatierra
My Commission Expires Apr. 5, 1985

My commission expires 4-5-85.

Mr. **Faulkner**. Both Ms. Craft and Ms. Tully corroborate many of the statements and allegations made by other persons interviewed who have decided to remain anonymous so as not to jeopardize their employment and/or union status. John Armstrong of the San Diego County District Attorney's Office is here to provide information on some of the individuals associated with local 30.

Using its deposition authority conferred by Senate Resolution 333, the chief counsel and a staff investigator deposed local 30 President Loretta Proctor in San Diego on August 6, 1982. I would like to place a copy of this deposition in the record.

Senator **Rudman**. The deposition will be included in the record, without objection.

[The deposition referred to was marked as "Exhibit No. 7," for reference, and follow:]

EXHIBIT NO. 7

DEPOSITION OF LORETTA PROCTOR BEFORE THE UNITED STATES SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

U.S. COURTHOUSE,
940 FRONT STREET,
COURTROOM 7,
San Diego, Calif., August 6, 1982.

The above-entitled matter came on for hearing, pursuant to Notice, at 10 a.m.

APPEARANCES

On behalf of the Subcommittee on Investigations: S. Cass Weiland, Chief Counsel, Subcommittee on Investigations, United States Senate, Washington, D.C. 20510; David E. Faulkner, Investigator, Subcommittee on Investigations, United States Senate, Washington, D.C. 20550.

On behalf of the Deponent: Victor S. Eriksen, Attorney at Law, 1067 Front Street, San Diego, California 92101.

Mr. **Weiland**. This morning we are convening for the purpose of taking a deposition, pursuant to the rules of the Permanent Senate Subcommittee on Investigations.

I would like to begin by having all the parties introduce themselves. I am Chief Counsel for the Subcommittee, S. Cass Weiland. With me is one of my investigators, David Faulkner.

I'd like to ask Counsel for the Deponent to introduce himself.

Mr. **Eriksen**. Yes. Victor Eriksen appearing for Loretta Proctor, who is also present.

Mr. **Weiland**. The first order of business to enter into the record is the Notice of Deposition, which has been provided to Ms. Proctor. It is numbered 000002, and I would ask that the Reporter append that to the record as Exhibit 1.

(The document referred to as Exhibit 1 was marked for identification.)

EXHIBIT NO. 1

UNITED STATES OF AMERICA, CONGRESS OF THE UNITED STATES

NOTICE OF SENATE DEPOSITION

To Ms. Loretta Proctor, Sec.-Treas., San Diego Local 30 of the Hotel Employees and Restaurant Employees International Union, 2876 El Cajun Boulevard, San Diego, California 92104, greeting:

Please take notice that at 10:00 o'clock a.m., on August 6, 1982, S. Cass Weiland, Chief Counsel, of the staff of the Subcommittee on Investigations (Permanent) of the Senate of the United States, will take your deposition on oral examination concerning what you may know relative to the subject matters under consideration by said Subcommittee. The deposition will be taken before a notary public, or before some other officer authorized by local law to administer oaths; it will be taken pursuant to the Subcommittee's rules, a copy of which are attached.

(Exact location for the taking of this deposition will be transmitted prior to August 6, 1982.)

Given under my hand, by authority vested in me by the Subcommittee, on July 29, 1982.

W. V. ROTH, Jr.

As Exhibit 2, I would like to introduce for the record a copy of a subpoena, which was served upon Ms. Proctor this morning, the number of which is E01184.

(The document referred to as Exhibit 2 was marked for identification.)

EXHIBIT NO. 2

UNITED STATES OF AMERICA, CONGRESS OF THE UNITED STATES

To Ms. Loretta Proctor, Sec.-Treas., San Diego Local 30 of the Hotel Employees and Restaurant Employees International Union, 2876 El Cajun Boulevard, San Diego, California 92104.

Pursuant to lawful authority, you are hereby commanded to appear for a deposition authorized by the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs of the Senate of the United States, on August 6, 1982, at 10:00 o'clock a.m., then and there to testify what you may know relative to the subject matters under consideration by said committee.

(Exact location for the taking of this deposition will be transmitted prior to August 6, 1982.)

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To any Subcommittee representative or U.S. Marshal to serve and return.

Given under my hand, by order of the committee, this 29th day of July, in the year of our Lord one thousand nine hundred and eighty-two.

W. V. ROTH, Jr.,
Chairman, Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

Finally, I'd like to introduce for the record Exhibit Number 3, which is a letter provided to me this morning by Mr. Eriksen, dated August 6, 1982, and its caption: Ms. Loretta Proctor, et cetra.

(The document referred to as Exhibit 3 was marked for identification.)

EXHIBIT NO. 3

SAN DIEGO, CALIF., *August 6, 1982.*

Re: Ms. Loretta Proctor, Sec.-Treas., San Diego Local 30 of the Hotel Employees and Restaurant Employees International Union.

S. CASS WEILAND,
Chief Counsel, Senate Permanent Subcommittee on Investigations
Washington, D.C.

DEAR MR. WEILAND: This letter is being presented to you this date at the time of the pre-scheduled deposition of Ms. Proctor.

Please be advised that following my discussions with Ms. Proctor, my advice to her is that she answer questions which calls for her name, residence, and title with the local chapter; and that she decline to answer any and all other questions on the grounds that her answers may tend to incriminate her. She is following my advice.

Although I have spoken to my client, yourself, Howard Shapiro of your office, and Ronald Domnitz, the attorney for the local, I remain unaware of the focus, nature, scope and purpose of your investigation. My advice to Ms. Proctor will remain the same unless and until I am sufficiently informed in these areas, in writing, and told whether Ms. Proctor is a subject of the investigation or simply a witness.

Until I receive this information, I am not in a position to determine at a deposition whether a particular question might be properly objectionable as irrelevant to or outside the scope of your investigation, or objectionable on some other ground. Moreover, I am certainly not in a position to advise Ms. Proctor that her responses to questions dealing with the union or the local could not link her to criminal conduct.

I cannot represent that your acceding to my request and providing me with such written information would result in Ms. Proctor's freely providing testimony. I can and do represent that, in my opinion, I would be committing malpractice if my present advice were any different.

That is our posture in this matter at the present time.

Very truly yours,

VICTOR S. ERIKSEN.

Mr. WEILAND. Mr. Eriksen. I would ask you if you have a statement for the record, before we begin, and I would like to point out that we have read your letter, and we understand your position, with respect to your client's testimony this morning. However, we do intend to propound questions to her. I don't expect this to be a lengthy process, in view of your position, but why don't you make your statement for the record.

Mr. ERIKSEN. At the present time, with my letters being incorporated into this record, I really don't have any further statement.

Mr. WEILAND. Ms. Proctor, let me ask you first, would you give us your full name and address?

Ms. PROCTOR. My home address?

Mr. WEILAND. Yes, ma'am.

Ms. PROCTOR. Loretta Elizabeth Proctor, 530 Santa Florencia, Solana Beach, California.

Mr. WEILAND. And would you give me your business address, please?

Ms. PROCTOR. 2876 E. Cajon Boulevard.

Mr. WEILAND. And your age, please.

Ms. PROCTOR. Sixty-seven, born November 6, 1914.

Mr. WEILAND. Ms. Proctor, what is your position with Local 30?

Ms. PROCTOR. I'm the president.

Mr. WEILAND. And how long have you held that position?

Ms. PROCTOR. Since April the 9th.

Mr. WEILAND. 1982?

Ms. PROCTOR. Wait a minute. April—April—Friday was the ninth, so it would be Tuesday. The election was on a Tuesday, so that would be Friday, Wednesday, Thursday—That would be the sixth, April 6th was the election.

Mr. WEILAND. Of 1982?

Ms. PROCTOR. 1982.

Mr. WEILAND. And what was your position, prior to the election?

Ms. PROCTOR. Secretary of the local.

Mr. WEILAND. Is that secretary-treasurer?

Ms. PROCTOR. Secretary-treasurer.

Mr. WEILAND. And for how long did you hold that position?

Ms. PROCTOR. From November—I can't give you the exact date. Mr. Tinch died on the fourteenth, so it must have been about the fifteenth of November 1979.

Mr. WEILAND. Were you originally appointed to that position?

Ms. PROCTOR. Appointed and then elected the first part of '80.

Mr. WEILAND. Early 1980?

Ms. PROCTOR. Yes.

Mr. WEILAND. Would you describe for us, just in general, what your duties were as secretary-treasurer?

Ms. PROCTOR. Well, of contracts and grievances and running the office, banking and seeing that the reports were sent out.

Mr. WEILAND. Is it fair to say that your duties essentially made you the chief financial officer for the local during that period?

Ms. PROCTOR. Yes.

Mr. WEILAND. You handled the money of the local then?

Ms. PROCTOR. Well, I was responsible.

Mr. WEILAND. Did you have others who worked for you who handled the books and records, for example?

Ms. PROCTOR. Yes.

Mr. WEILAND. Did you have signatory powers over the checking account?

Ms. PROCTOR. Yes.

Mr. WEILAND. More than one?

Ms. PROCTOR. It takes two.

Mr. WEILAND. Two signatures?

Ms. PROCTOR. It takes two signatures.

Mr. WEILAND. How many accounts did the Local have?

Ms. Proctor. We have the general fund and then we have what they call a death fund and a sick fund for the members if they die. The accounts are not co-mingled.

Mr. Weiland. What bank has those accounts?

Ms. Proctor. Wells Fargo and Central Federal. I don't remember offhand, because I always had the books with me when we would go to have interest put in.

Mr. Weiland. Were there two bank accounts to the best of your recollection?

Ms. Proctor. Oh, yes. There's two bank accounts, but one is the general fund. It's in—wait a minute. What is the name of the bank up by Food Basket, up on El Cajon Boulevard? Is it Crocker, or is it Wells Fargo? I never—I just look when I'm going somewhere. I don't see anything but the landmarks.

Mr. Weiland. What role does the Executive Board play?

Ms. Proctor. They have to okay all money.

Mr. Weiland. Is it your recollection that during that period you were Secretary-Treasurer, the Executive Board approved all of the disbursements of the Local, or is it just over a certain amount?

Ms. Proctor. The executive board okays all the disbursements over our regular bills.

Mr. Weiland. Would you explain that?

Ms. Proctor. Like payroll and mortgage payments and lights and gas, taxes. Those are normal bills that are paid, but anything outside of that, the executive board has to agree.

Mr. Weiland. Would that be an approval, so to speak, by the executive board, prior to money being disbursed?

Ms. Proctor. Right.

Mr. Weiland. Would that be the case, for example, if they were going to lease automobiles?

Ms. Proctor. Well, now, I wasn't in there when that took place, but I'm sure that the executive board, they did okay it.

Mr. Weiland. Did they do that prior to the entrance into the lease?

Ms. Proctor. Now, wait just a minute. You're talking about something that I wasn't privy of at that time. I was a business agent.

Mr. Weiland. So, you don't have any knowledge?

Ms. Proctor. I have no knowledge of what went on in the business part of it before November 1979.

Mr. Weiland. Now, after November of 1979, up to the present time——

Ms. Proctor. Uh-huh.

Mr. Weiland. Was there any time that the Local leased automobiles or other equipment?

Ms. Proctor. No way.

Mr. Weiland. We understand that the Local has an arrangement with the Local insurance company to provide various types of coverage. The name of the company is Fordham Insurance. Is that correct?

Ms. Proctor. That's correct.

Mr. Weiland. Have you been involved in contracting with Fordham Insurance?

Ms. Proctor. I just pay the premiums, and they are in the order that any other insurance would be, their premiums would be, and for——

Mr. Eriksen. May we go off the record for one moment?

Mr. Weiland. Yes. Off the record.

(Off the record discussion.)

Mr. Weiland. Back on the record.

At what time have you entered into agreements with Fordham on behalf of the Local?

Ms. Proctor. Well, I've been with the Local 24 years, and they've always had——

Mr. Weiland. What about yourself though?

Ms. Proctor. I carry mine.

Mr. Weiland. I mean, your personal involvement on behalf of the Local with this company, beginning shortly after November of 1979.

Ms. Proctor. No, no.

Mr. Weiland. Did you arrange with Fordham to continue the coverage for Local 30, after you became Secretary-Treasurer?

Ms. Proctor. Yes.

Mr. Weiland. And with whom did you deal at Fordham?

Ms. Proctor. The girl that works in the office. I don't know her name.

Mr. Weiland. Have you dealt with John LiMandri?

Ms. PROCTOR. Yes.

Mr. WEILAND. Is he the President of the company?

Ms. PROCTOR. I don't know.

Mr. WEILAND. Do you know what his position with Fordham is?

Ms. PROCTOR. No.

Mr. WEILAND. What is your understanding of his relationship with the company?

Ms. PROCTOR. All I know is he's an insurance broker.

Mr. WEILAND. You don't know him to be the owner?

Ms. PROCTOR. No.

Mr. WEILAND. Did there come a time, shortly after you became secretary-treasurer, that you extended the coverage of Local 30 with Fordham?

Ms. PROCTOR. What do you mean, "extended"?

Mr. WEILAND. Was there a time that Fordham only had the coverage of the local's automobiles, and then it was extended to cover buildings and other things?

Ms. PROCTOR. No. They've always covered the buildings.

Mr. WEILAND. They've always covered the buildings. When you arranged to continue the coverage with Fordham, did you consult with the executive board?

Ms. PROCTOR. Yes.

Mr. WEILAND. Prior to that?

Ms. PROCTOR. Yes.

Mr. WEILAND. OK. Let's go off the record.

[Off-the-record discussion.]

Mr. WEILAND. Back on the record.

Whereupon,

LORETTA PROCTOR

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Mr. WEILAND. I would ask you if you would state for the record whether all of your answers to my questions have been completely truthful, as if you had been under oath?

The WITNESS. As far as to my knowledge, it's the truth.

EXAMINATION

By Mr. WEILAND:

Q. Getting back to this question of Fordham. Is it your testimony that prior to entering into any agreement to continue the coverage of Local 30 with Fordham, you got the acquiescence of the executive board?

A. Yes, I did.

Q. Did you tell the executive board that you had already arranged with Fordham to continue the coverage, prior to the time that they voted?

A. No.

Mr. ERIKSEN. Well, I think that I'm going to object at this point, along the lines raised in my letter attached to this deposition as Exhibit 3, and that is my advice to you, Loretta.

Mr. WEILAND. She's claiming a privilege, then, to that question?

Mr. ERIKSEN. Yes.

Mr. WEILAND. Would she state it for the record?

The WITNESS. Well, you say it for me.

Mr. WEILAND. She has to say it.

Mr. ERIKSEN. You have to say it.

The WITNESS. On the advice of my attorney I decline to answer on the grounds that it may incriminate me.

BY MR. WEILAND:

Q. Ms. Proctor, was there ever a time, after November of 1979 that the insurance business of Local 30 was put out for bids?

A. Yes.

Q. There was?

A. Yes.

Q. What is your best recollection as to the time of that?

A. I don't remember.

Q. Was it after November of 1979?

A. Oh, yes.

Q. Was it in 1980?

A. Possibly. All the contracts come due and——

Mr. **Weiland**. Off the record.

(Off-the-record discussion.)

Mr. **Weiland**. Back on the record.

The **Witness**. I don't know.

By Mr. **Weiland**.

Q. Let me ask you this, Ms. Proctor: First of all, who is Rachael Craft?

A. She was my secretary.

Q. And would there be some records of her having circulated for bids, this proposal to cover Local 30 with insurance?

A. I don't know.

Q. Well, how did she put the business out for bids?

Mr. **Eriksen**. We desire the same privilege. Is that correct?

The **Witness**. Right.

By Mr. **Weiland**.

Q. How many bids did you receive for the insurance business of Local 30, after Rachael Craft put the business out for bids?

Mr. **Eriksen**. We would assert the same privilege. Is that correct?

The **Witness**. That is correct.

By Mr. **Weiland**.

Q. In your opinion, Ms. Proctor, is the business relationship with Fordham Insurance Company a beneficial one for Local 30 in the sense of being the best deal that the Local can make?

Mr. **Eriksen**. We would assert the same privilege. Is that correct?

The **Witness**. Right.

By Mr. **Weiland**.

Q. Let me turn your focus for a minute to some questions that we have, relating to the pension fund for the Local. How long has the Local had a pension fund arrangement?

A. It's on the records, and I really don't know.

Q. Your recollection would be some time in the early 1950s?

A. Yes.

Q. Now, that is a pension fund that covers just the members of Local 30; is that right?

A. That's right.

Q. It's not related to the pension funds of the International?

A. No.

Q. Have there been discussions at your level, that is at the executive board level, relating to a merger of Local 30's pension fund with that of the International?

Mr. **Eriksen**. We would assert the same privilege; is that right?

The **Witness**. That is correct.

By Mr. Weiland:

Q. Are you on the board of the pension fund?

A. No, I'm an alternate.

Q. Have you ever been on the board?

A. Yes.

Q. During what period of time?

A. Until April 2nd. I'm sorry. Until April 6th of 1982.

Q. And when did you begin?

A. That would be November of '79.

Q. Does the Board of Trustees have regular meetings?

A. Yes.

Q. And have you attended those meetings, or most of those meetings?

A. Yes.

Q. Who are the members of the Board today?

A. Harvey Keistings, Manager, Vacation Village and Lawrence—Lawrence is his last name, of Host International at the Airport, and there's Marco LiMandri and Jim Tobin.

Q. And for the record, Marco LiMandri is the current Secretary-Treasurer of the Local?

A. Yes.

Q. Tobin is an officer in the International, is that correct?

A. Yes.

Q. What position did he have with the Union?

A. Organizer.

Q. Does he have any positions with Local 30?

A. Organizes it.

Q. So he's paid by both entities?

A. No.

Q. Who pays him?

A. Only by International.

Q. Do you know what his salary is?

A. No.

Q. Do you know whether Mr. LiMandri or Mr. Tobin have had discussions with officers of the International about merging the funds of Local 30 pension arrangement with the International?

Mr. **Eriksen**. We would assert the same privilege; is that correct?

The **Witness**. Right.

By Mr. **Weiland**:

Q. Do all of the members of Local 30—Strike that. Are all of the members of Local 30 covered by the local's pension fund, or are some of them in the International——

Mr. **Eriksen**. We would assert the same privilege; is that correct?

The **Witness**. Right.

By Mr. **Weiland**:

Q. I'm specifically interested in finding out whether, for example, employees of the Del Coronado Hotel, may be members of the international pension fund, as opposed to Local 30's pension fund.

A. Yes. It's on the record.

Q. That's a matter of record that they are? Are there other employees of establishments here in town who belong to the International fund? Strictly the employees of the Del Coronado Hotel?

A. Right.

Q. Why is that?

Mr. **Eriksen**. We would assert the same privilege. Is that correct?

The **Witness**. That's right. I didn't sign the contracts.

By Mr. **Weiland**:

Q. Who negotiated the contracts with the Del Coronado?

A. Mr. Tinch.

Q. Before he died?

A. Yes.

Q. Obviously. Shortly before he died?

A. I don't know. It was never in my house.

Q. What was the duration of the contract?

A. Right now, I don't know.

Q. How many houses in the Local 30 territory have separate employment contracts?

A. I don't know.

Q. Would it be quite a few or is the Del Coronado unique?

A. No. You have a—What they call a Council contract, and you have your independents and then you have the Del Coronado.

Q. Are you drawing a pension right now?

A. From the Local?

Q. Yes.

A. Yes.

Q. And how much is that?

A. $71.

Q. A month?

A. Yes.

Q. And that's based on how many years of service?

A. Well, I T.C.'d in here in '46.

Q. What does that mean?

A. Travel card.

Q. In 1946, and you were a continuous member until the present time?

A. Uh-huh.

Q. Are you covered by any other pension?

A. The International.

Q. And you're not receiving any disbursements from that at this time?

A. No. I haven't received a check.

Q. When will you begin to receive pension from the International?

Mr. **Eriksen**. If you know.

The **Witness**. I don't know.

By Mr. **Weiland**.

Q. When will you be eligible?
A. I'm eligible now.
Q. Do you know how much it will be?
A. No.
Q. Will it be more than $71 a month?
A. Yes.
Q. Can you give me any kind of ball-park figure?
A. No.
Q. Would it be in the neighborhood of John Gibson's pension?
A. No.
Q. What is Mr. Gibson's arrangement?
Mr. ERIKSEN. We desire the same privilege; is that correct?
The WITNESS. Right. I don't know anything about him.
Mr. ERIKSEN. May we go off the record?
Mr. WEILAND. Yes. Off the record.
(Off-the-record discussion.)
Mr. WEILAND. Back on the record.
The record should show that our understanding is from public reports that Mr. Gibson, who was the International Secretary-Treasurer has a pension in excess of $100,000 a year. I don't have the exact figure.
By Mr. WEILAND.
Q. Does anyone who has been covered by Local 30's pension, who is a member of Local 30, have a pension in excess of $100,000 a year to your knowledge?
A. No.
Mr. WEILAND. Off the record.
(Off-the-record discussion.)
Mr. WEILAND. Back on the record.
I don't think we have much more.
By Mr. WEILAND.
Q. With respect to one Joe LiMandri, we understand that he was a business agent.
A. Don't bury poor Joe. He's dying now.
Q. All right. Can you tell us, from your own personal knowledge what Mr. Joe LiMandri did for the Union when he was active?
Mr. ERIKSEN. We desire the same privilege; is that correct?
The WITNESS. Correct.
By Mr. WEILAND.
Q. It is our understanding that the local has on its payroll Mr. Herbert Schiffman; is that correct?
A. Yes.
Q. How long has the local been paying Mr. Schiffman?
A. Since '79.
Q. Does he also draw a salary from the International?
A. I don't know.
Q. You don't know whether he does?
A. No.
Q. What is his salary from Local 30?
A. $400 a week.
Q. What is your salary, by the way?
A. Right now, $75.
Q. A week?
A. Uh-huh.
Q. What was it while you were Secretary-Treasurer?
A. Three hundred and something. It's all on record. You can tell that.
Q. Who made the decision to hire Mr. Schiffman?
A. I did.
Q. In consultation with whom?
A. With the Executive Board.
Q. Did you consult with Mr. Ed Hanley?
A. No.
Q. Where did you come up with Mr. Schiffman?
A. Mr. Schiffman was in town. I needed someone to help negotiate contracts. All the contracts were due.
Q. Did the International send Mr. Schiffman to San Diego?
A. I decline to answer that question.
Q. On what grounds?
Mr. ERIKSEN. Same privilege?

The **Witness**. Same privilege.

By Mr. **Weiland**.

Q. Did there come a time when you wrote the International and threatened to resign?

A. Yes.

Q. Do you have copies of that letter?

A. There's one in the office.

Q. Would you provide us with copies of that?

Mr. **Eriksen**. I would suggest that Ms. Proctor provide me with a copy of it, and allow me to review it and advise her as to whether I think it's appropriate for her to provide one, and I can let you know.

Mr. **Weiland**. All right. Fine.

By Mr. **Weiland**.

Q. Did you actually resign in this first letter?

A. I resigned, and then sent another letter, and I unresigned.

Mr. **Weiland**. We'd like to see the other letter, too.

Mr. **Eriksen**. I'd be happy to review those, and based on my advice——

By Mr. **Weiland**.

Q. Why did you change your mind?

Mr. **Eriksen**. We'll assert the same privilege. Is that correct?

The **Witness**. Right.

Mr. **Weiland**. After you sent the letter of resignation, did you have any discussions with Ed Hanley?

Mr. **Eriksen**. We assert the same privilege. Is that correct?

The **Witness**. Yes.

By Mr. **Weiland**.

Q. Do you know Mr. Herman "Blackie" Leavitt?

A. Yes.

Q. Has Mr. Leavitt ever been on the payroll of Local 30?

A. No.

Q. What is his position?

Mr. **Eriksen**. With respect to what?

Mr. **Weiland**. With respect to International.

The **Witness**. He's a general organizer. It's all on record.

By Mr. **Weiland**.

Q. Has he been in San Diego on Union business from time to time?

A. Last time Blackie was here was in 1979.

Q. What was the purpose of that visit?

A. To install me as Secretary.

Q. Did you have any conversations with Mr. Leavitt about your resignation?

A. Yes.

Q. What did you tell Mr. Leavitt?

Mr. **Eriksen**. We assert the same privilege. Is that correct?

The **Witness**. Right.

By Mr. **Weiland**.

Q. Getting back to Mr. Schiffman's salary, did he take a pay cut from the International when he moved to San Diego?

A. That I don't know.

Q. Did you ever tell the Executive Board that he did take a pay cut?

A. Not me.

Q. You never did?

A. No.

Q. Did the Executive Board approve Mr. Schiffman's salary?

A. Yes, they did.

Q. That is his Local 30 salary?

A. That's right.

Q. There would be minutes of an Executive Board meeting?

A. That's right.

Q. Did Mr. Schiffman make a statement to the Executive Board that he was taking a salary cut?

Mr. **Eriksen**. We would assert the same privilege. Is that correct?

The **Witness**. Right.

Mr. **Weiland**. Do you understand that he did take a salary cut?

The **Witness**. I know nothing about his business. I only hired Mr. Schiffman for what he did for me.

Q. And you don't know what his salary is now?

A. No, and I don't want to know. That is not any of my business. I'm just running a charter here.

Q. You don't consider the salary of the officers of International any of your business?

Mr. Eriksen. We'll assert the same privilege; is that correct?

The Witness. Right.

By Mr. Weiland:

Q. Prior to the April 1982 election, did you ever tell anyone that the International would put the local into trusteeship, if Marco LiMandri was not elected?

Mr. Eriksen. Same privilege. Do you want to answer?

The Witness. I can answer the question. No way.

By Mr. Weiland:

Q. Did Mr. Schiffman ever make such a statement?

A. No, and I don't know—I can't speak for him.

Q. Not in your presence?

A. No.

Q. Why didn't you run for secretary-treasurer again?

A. I'm old and tired. I've been babysitting these members for twenty-five years—twenty-three years. It's time a younger person took over, but I'm there to guide them.

Q. Does he have much experience in Union matters?

A. Yes, he has.

Q. How long has he been in the Union?

A. Over two years.

Q. He's acquired his experience during those two years?

A. Right. He's worked in hotels too.

Q. Prior to the 1982 election, did you have discussions with Joe LiMandri about Marco running for election?

A. Prior to the election?

Q. Yes.

A. Yes, I picked him myself.

Q. Did Joe ever ask you to delay your retirement until Marco had enough time in the Union, so that he could run?

A. No.

Q. Did anyone ever make that request to you?

A. No.

Q. During the time that you've been an officer, that is since November 1979, has the local borrowed money from the International at any time?

A. Yes.

Q. How much money?

A. I think it was one month's per capita, paid back.

Q. Was that because the local was in some severe financial straights?

A. The answer is no.

Q. The Union was not in severe financial straights?

A. No.

Q. Was there a time in early 1980 where the cash on hand fell to about $5,000?

A. No., I don't think we were ever that low.

Q. How low were you?

A. I couldn't tell you.

Q. The books and records of the Local would show that?

A. Right.

Q. When did Ray Lombardo begin working for you?

A. I hired Ray shortly after I hired Marco.

Q. What did he do?

A. He was a Business Agent.

Q. Was he successful?

A. No.

Q. Is he still with the Local?

A. No.

Q. Has he been fired?

A. Yes.

Q. Who fired him?

A. Marco.

Q. When?

A. I don't know. Two or three weeks ago.

Q. Was that approved by the Executive Board?

A. Yes.

Q. Why was he hired?

A. I needed a business agent.

Q. How did you come across Mr. Lombardo?

A. He's a member.

Q. Did anyone recommend him to you?

A. No.

Q. How long has he been a member?

A. That, I don't know.

Q. Do you know if he's ever threatened or intimidated anybody?

A. I don't know.

Q. Have the bylaws of Local 30 changed since November of 1979?

A. Yes.

Q. And did Mr. Schiffman have a hand in that?

A. No.

Q. No, he did not?

A. He did not.

Q. Who re-wrote the bylaws of Local 30?

A. Jack Kenneally and myself.

Q. Would you identify Mr. Kenneally for the record?

A. He's an International man.

Q. And you sat down with Mr. Kenneally and wrote the bylaws?

A. And with the approval of the Executive Board?

Mr. WEILAND. Another set of documents that we'd like are the full minutes of the Executive Board since November 1979.

The WITNESS. All of them?

Mr. WEILAND. Yes.

Mr. ERIKSEN. You're asking for this informally, at this time?

Mr. WEILAND. Well, I'm making a formal statement on the record that we would like this, in lieu of the subpoena on the Local, and we would appreciate being furnished with it.

Mr. ERIKSEN. That's since November of 1979?

Mr. WEILAND. Yes, sir.

It may be necessary to request other books and records of the Local, Ms. Proctor, as we continue our inquiry into this matter.

The WITNESS. You can have anythng you want.

Mr. WEILAND. That's the answer I was looking for. We appreciate your cooperation, and that of the Local in this endeavor, and would expect to deal with your Counsel and Counsel for the Local.

The WITNESS. I'll ask you the same questions I asked the gentleman that was here last year. If I knew what you were looking for, maybe I could help you, because my books are open. Everything's public. I'm not hiding anything.

By Mr. WEILAND.

Q. We had talked about Mr. Lombardo, did he ever have a position with the International?

A. No.

Q. Is he from San Diego or is he from out of town?

A. I heard he was from New York, but he's been in San Diego a long time.

Q. How about Mr. Tobin? He's on the pension fund Board of Trustees. Is that right?

A. Right.

Q. You've testified he's an organizer of the International?

A. Right.

Q. Does he live here in town?

A. Yes.

Q. How long has he been here?

A. To give you the exact date, I can't tell you.

Q. Can you give me an estimate?

A. I don't know whether it was the latter part of 1980 or 1981.

Q. Do you know where he came from?

A. He's an International Organizer. He's from all over.

Q. Do you know if he's a friend of Mr. Kenneally?

A. I don't know.

Q. How about Leonard Bergl?

A. Leonard is an International man.

Q. How long has he been in San Diego, or does he live here?

A. He lives here.

Q. Has he been here for roughly the same as Tobin?

A. No. He hasn't been here as long as Tobin.

Q. And what is his function?

A. Organizer.

Q. Does he work as an organizer around town?

A. Organizer.

Q. And he's paid by the International?

A. Yes.

Q. Do you know what his salary is?

A. Nope.

Q. You don't have any interest in that?

A. I don't want to know. I'm not interested in that. All I'm interested in is my little local?

Q. Is he paid by the local?

A. No.

Q. Did you ask for Mr. Bergl to come to town?

A. Yes.

Q. By name?

A. No. I just said, "I need all the help I can get".

Q. Who did you make that request to?

A. I don't remember.

Q. Was it Mr. Schiffman?

A. No. It wasn't Mr. Schiffman. I don't remember which one of the men in International it was.

Q. Was it Mr. Kenneally?

A. It's possible.

Q. Did you ask for——

A. I just said I needed help.

Q. You made several requests for help, and first they sent Tobin and then Bergl?

A. No. No, I only made the one request, but I said I needed a lot of help.

Q. When was that?

A. San Diego is big, you know.

Q. I've noticed.

A. If you've ever done any organizing, you know that you can't be in too many spots at one time when you need it.

Q. Have they been successful?

A. Yes.

Q. Has membership increased?

A. Yes.

Q. What is the membership today?

A. From four to five thousand.

Q. What was it in November 1979?

A. I don't know.

Q. How much has it risen, roughly?

A. Quite a bit, but like I say, I can't tell you those figures, because when I want to know something, I go to my books and there they are, and that's what you can do?

Q. You have books that specifically show what the membership is over the time?

A. Yes. We keep records.

Q. What do you call this record?

A. Well, probably the International Report.

Q. International Report?

A. Right.

Q. How often do you file that, once a year, once a month?

A. Once a month.

Q. Has the International sent any other people to town for organizing purposes, since November 1979?

A. No.

Q. We were talking about Tobin, Bergl and Schiffman?

A. That's right. I'd like for them to send me three more, if they have them.

Q. Has the International given the local any other money for services, for organizing purposes? Like for pickets or anything of that sort?

A. Yes.

Q. When was that and how many?

A. Two hundred a week.

Q. How long have they been giving you two hundred a week?

A. That, I don't know, but it is for organizing, and there's a report sent in.

Mr. WEILAND. That's all the questions I have. We appreciate your being here today and testifying, and we appreciate your continued cooperation, with respect to the requests we've made for certain documents this morning, or requests that we might make in the future.

Off the record.

(At 11:00 a.m., the deposition was closed.)

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I, Patricia Twomey, a Notary Public for the State of California, hereby certify: That the foregoing deposition of Loretta Proctor, was taken before me, pursuant to subpoena duces tecum, issued under the Senate Sub-committee, at the time and place therein set forth, at which time the witness was put under oath by me; that the testimony of the witness and all objections made at the time of the examination were reported by means of stenotype by me and were, by myself, thereafter transcribed; and that the foregoing deposition is a true record of the testimony of all changes made by the witness and of all objections made at the time of the deposition.

In Witness Whereof, I have hereunto subscribed my name and affixed my seal, this 6th day of October 1982.

[SEAL]

PATRICIA TWOMEY,
Notary Public, in and for the
State of California.

The following information was received by the subcommittee subsequent to the deposition.

SAN DIEGO, CALIF., *November 30, 1982.*

Re Loretta Proctor, San Diego Local 30.

S. CASS WEILAND,
Chief Counsel, U.S. Senate,
Permanent Subcommittee on Investigations, Washintgon, D.C.

DEAR MR. WEILAND: I have enclosed the original of Loretta Proctor's memo of changes to the deposition transcript, signed by Ms. Proctor. Please incorporate this into the record.

Sincerely,

VICTOR S. ERIKSEN,
Attorney at Law.

CHANGES TO DEPOSITION

Page 4, Line 19:

My address is 930 Santa Florencia, Solana Beach, California.

Page 9, Line 4:

I thought the question was did I personally ever lease any vehicle or other equipment through the Local. To my knowledge, Joe Tinch, now deceased, leased a Ford Lincoln automobile through the Local when he was secretary. At present, Marco LiMandri is leasing a Chrysler automobile through the Local. Also, the Local has for years leased a copy machine, and still does. All of these leases were approved by the Executive Board.

Dated: November 29, 1982.

LORETTA PROCTOR.

Mr. FAULKNER. On practically all questions of substance Ms. Proctor, who served as secretary-treasurer from November 1979 until April 1982, either asserted the fifth amendment or said we would have to check the local's records. The deposition includes the following exchanges:

Page 6, lines 10–16:

1. Mr. WEILAND. Is it fair to say that your duties essentially made you the chief financial officer for the local during that period?

Ms. PROCTOR. Yes.

Mr. WEILAND. You handled the money of the local then?

Ms. PROCTOR. Well, I was responsible.

Page 14, lines 8–21:

2. Mr. **Weiland**. How many bids did you receive for the insurance business of local 30, after Rachel Craft put the business out for bids?

Mr. **Eriksen** [counsel for witness]. We would assert the . . . privilege [against self-incrimination]. Is that correct?

The Witness. That is correct.

Mr. **Weiland**. In your opinion, Ms. Proctor, is the business relationship with Fordham Insurance Company a beneficial one for local 30 in the sense of being the best deal that the local can make?

Mr. **Eriksen**. We would assert the same privilege. Is that correct?

The Witness. That is correct.

Mr. **Weiland**. In your opinion, Ms. Proctor, is the business relationship with Fordham Insurance Company a beneficial one for local 30 in the sense of being the best deal that the local can make?

Mr. **Eriksen**. We would assert the same privilege. Is that correct?

The Witness. Right.

Mr. **Faulkner**. I would like to point out at this point, Mr. Chairman, that this questioning was in response to Ms. Proctor's assertion that bids had in fact been let by Rachel Craft. I think you will hear testimony later that in fact was not the case.

Page 15, lines 11–16:

Q. Have there been discussions at your level, that is, at the executive board level, relating to a merger of local 30's pension fund with that of the international?

Mr. **Eriksen**. We would assert the same privilege is that right?

The Witness. That is correct.

Page 22, lines 19–26:

4. A. Mr. Schiffman was in town. I needed someone to help negotiate contracts. All the contracts were due.

Q. Did the international send Mr. Schiffman to San Diego?

A. I decline to answer that question.

Q. On what grounds?

Mr. **Eriksen**. Same privilege?

The Witness. Same privilege.

Page 24, lines 4–8 and 21–26:

5. By Mr. Weiland:

Q. Do you know Mr. Herman Blackie Leavitt?

A. Yes.

Q. Has Mr. Leavitt ever been on the payroll of local 30?

A. No.

Q. Did you have any conversations with Mr. Leavitt about your resignation?

A. Yes.

Q. What did you tell Mr. Leavitt?

Mr. **Eriksen**. We assert the same privilege. Is that correct?

The Witness. Right.

Mr. **Faulkner**. Ms. Proctor also asserted that local 30 never had a cash flow problem, which is contradicted by financial statements, executive board minutes, and other persons interviewed by the subcommittee. At one point she denied, under oath, that local 30 had any auto leasing arrangements. However, the local's records indicate monthly payments to lease a car for January 1981.

Marco LiMandri and Nancy Browning refused to speak to the subcommittee and I would like to place in the record a copy of the subcommittee's letter to H. Ronald Domnitz, the local's attorney, and his response thereto.

Senator **Rudman**. Without objection.

[The letters referred to were marked as "Exhibit No. 8," for reference, and follow:]

EXHIBIT NO. 8

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C., April 15, 1982.

H. RONALD DOMNITZ, Esq.
Fourth and Redwood Building,
San Diego, Calif.

DEAR MR. DOMNITZ: In the aftermath of the recent elections at Local 30, Hotel Employees and Restaurant Employees International Union, please advise me as soon as possible whether the following people are available for an interview by the Senate Permanent Subcommittee on Investigations: Loretta Proctor, Marco LiMandri, Ray Lombardo, and Nancy Browning.

In the event that any of these individuals would refuse to be interviewed, I would request that the basis for such a refusal, e.g. assertion of the fifth amendment privilege, be provided.

Please call me should you have any questions concerning this matter.

Sincerely,

MICHAEL C. EBERHARDT,
Deputy Chief Counsel.

DOMNITZ, LEVINE, FORD AND MULLER,
ATTORNEYS AT LAW,
San Diego, Calif., May 4, 1982.

U. S. SENATE,
Committee on Governmental Affairs, Senate Permanent Subcommittee on Investigations, Washington, D.C.

(Attention: Michael C. Eberhardt, Deputy Chief Counsel)

DEAR MR. EBERHARDT: This letter is written in response to your letter dated April 15, 1982. The four people you desire to interview do not desire to speak with representatives of the Committee at this time.

Very truly yours,

H. RONALD DOMNITZ.

Mr. FAULKNER. Herbert Schiffman has been subpenaed to appear before the subcommittee this morning.

Before turning to the witnesses, I would like to place in the hearing record several newspaper articles concerning the recent operation of local 30.

Senator RUDMAN. Without objection.

[The newspaper articles referred to were marked as "Exhibit No. 9," for reference, and follow:]

EXHIBIT NO. 9

CONTROVERSY, DISCONTENT SWIRL ABOUT CULINARY WORKER UNION

(By Jon Standefer, Staff Writer, The San Diego Union)

(Monday, January 5, 1981)

The 4,000-member union here that represents restaurant and hotel employees has come under the de facto control of its international office.

Despite official denials, Local 30 of the Hotel and Restaurant Employees and Bartenders Union—commonly known as the culinary workers union—has for the past two years been dominated by Herbert "Pinky" Schiffman, an international vice president and right-hand man of the union's international president, Edward T. Hanley of Chicago.

Local 30 has long been regarded by many union members as weak, and, in some cases, corrupt. Joseph H. Tinch, the local's secretary-treasurer until his death last year, pleaded guilty in 1978 to receiving stolen personnel records from a hotel chain. Schiffman has been overheard to say that a former local official "kept his girlfriend on the (union) payroll for nine years."

But many union members are no happier with Schiffman's control of the local than they were before.

Some complain bitterly that, during the eight-month-long negotiations between Schiffman and a consortium of hotels for a new five-year contract that went into effect in November, union members had no input and got almost no information about the progress of the negotiations or the demands being made.

And of several dozen union members interviewed by The San Diego Union, none was aware that in August, Schiffman had pushed through a change in the local bylaws that removes the right of the union membership to ratify all contracts.

Many members are indifferent about the local, saying, as did a bartender at one union hotel, "I belong to the union for one reason: I can't work here if I don't."

Others, particularly the older career hotel and restaurant employees, have specific complaints:

Problems reported to the union's business agents are rarely followed up; information about such things as health insurance benefits are only reluctantly provided; union meetings relating to important business (such as the bylaws change) are neither well-publicized nor held at hours convenient to the membership, and the wages and benefits negotiated on behalf of the membership fall far short of what members believe is possible and even of what their nonunion counterparts receive.

Those complaints have led to direct action.

In November, after the terms of the new contract were made public, employees at the Little America Westgate Hotel voted 143 to 7 to cut ties with Local 30.

The Westgate decertification did little to enhance Schiffman's stature, but he says that "it doesn't mean anything. We've had 'decerts' before."

Although he does concede that the local leadership in the past has "had problems," Schiffman insists that the union is healthy now "and the (latest) contract is the best one we've ever gotten."

Over the past several years, the national union—with 400,000 members the country's 15th largest—and its top officials have been under investigation for misuse of union funds and alleged links to organized crime.

The union is headquartered in Cincinnati, but Hanley, 48, and other officials including Schiffman maintain residences in Palm Springs.

Published reports have linked Hanley to several reputed organized crime figures there and in Chicago, where Hanley began his union career in the early 1960s as a business agent for Bartenders Local 450, a union reportedly chartered by Chicago mobster Joey Auippa.

Hanley has been quoted as saying that any dealings he has had with reputed gangsters were either coincidental or social, and have nothing to do with the union.

The handling of union funds came under scrutiny by a federal grand jury in Cincinnati following news reports that between 1973, when Hanley became president, and 1977, the union's assets shrunk from more than $21 million to less than $13 million.

Though Hanley was reportedly a target of the grand jury investigation, he was not indicted. However, the union's secretary-treasurer, John Gibson of St. Louis, was indicted in 1979 on an 18-count charge of conspiracy, racketeering, embezzlement of union funds and tax fraud.

Schiffman and another union vice president, John Stamos of Quebec, were named in two of the counts, charging embezzlement and conspiracy. The charges involved, among other things, use of the union's airplane for personal trips by the union officers.

Gibson was convicted of two counts of embezzlement and one count of conspiracy involving use of the airplane and was sentenced last August to four months in prison. The other charges were dismissed.

The charges against Schiffman and Stamos also were dismissed last November because, according to the prosecutor, they "did not have the authority to control use of the plane as Gibson did."

Schiffman, 53, has had other brushes with labor-union law.

In 1970, he was indicted by a federal grand jury in Miami, where he was president of the local, allegedly threatening hotel employees who refused to go out on strike. That charge was dismissed by a federal judge.

He was convicted in Atlanta in 1975 of a misdemeanor violation of the Taft-Hartley law for accepting an illegal discount for hotel rooms. He was given probation, which ended last September.

Schiffman, a former boxer, was a controversial figure in Miami. In 1978, after a three-week strike in which 400 union members were fired, a bomb blew apart Schiffman's rented car when he turned on the ignition switch. He escaped with only minor injuries, but law enforcement officials said he was lucky to have survived.

Schiffman moved to Palm Spprings later that year and has spent much of his time since then in San Diego.

Still controversial, he is technically working as a consultant to the local union, but there is no doubt about who is in charge. Secretary-treasurer Loretta Proctor, the chief executive officer, refers all questions about the union to "Mr. Schiffman." In January of 1979, Schiffman negotiated a five-year contract with the Hotel del Coronado, whose 1,000 employees make it the largest unionized hotel in San Diego.

Industry sources say that contract heavily favored management. Wages for most categories of employees, for instance, will increase an average of only about five percent per year over the life of the contract.

Also, the employer's share of health insurance premiums—$1 per shift per employee—can be increased no more than 5 cents per year.

That means, says one insurance consultant, that if health costs increase more than 5 percent per year, benefits to union members will be cut.

More recently, Schiffman negotiated a five-year contract, with a no-strike clause, between the union and the Restaurant-Hotel Employers' Council of San Diego, Inc., a group of 18 hotels and restaurants. (Most other union shops in the area follow the council lead contract in their own contracts.)

The contract, which went into effect in November, calls for an 8 percent per year raise in wages (for tipped employees) for the first three years, with wages the last two years to be negotiated. Non-tipped employees gained a 9 per cent per year increase in salary.

Hospitalization benefits went up dramatically, but only in comparison with the previous contract's abysmal benefits. The life-time maximum hospitalization benefits under the 1975–80 contract were only $7,500. In the new contract, the lifetime maximum is up to $75,000.

The contract may be the local's "best one ever," as Schiffman says, but industry sources say that, far from leading the field, it is a minimum one and does not accurately reflect what some union hotels and restaurants must pay to obtain and keep employees.

For comparison, The San Diego Union obtained the salary and benefits schedule from Atlas Hotels Inc., a San Diego-based chain of hotels which are not unionized.

In virtually every employee category, Atlas pays salaries higher than those called for in the union's contract with the council:

—A maid this year will make $3.35 an hour—the federal minimum wage as of Jan. 1—under the union contract; Atlas will pay $3.63 an hour.

—A union bartender will make $5.35 an hour, an Atlas bartender will make $5.84 an hour.

—A night chef at a union hotel will make $5.64 an hour; at an Atlas hotel, $5.93.

Atlas Hotels also provides company-paid hospitalization, free dental insurance, retirement and other benefits which the union contract includes—but with some notable additions.

Atlas provides a free, long-term disability insurance plan, where employees who are disabled can receive up to 60 percent of their salaries for up to five years.

And the lifetime benefits under Atlas' hospitalization coverage is now $1 million.

Atlas' wage and benefit program is more generous than the union's by design—the chain has no desire to be unionized.

"We survey the industry (on wages and benefits), and try to stay slightly above the market," says Hank Hoxie, the Atlas director of industrial relations.

Hoxie believes that Atlas employees are not interested in unionization because his chain has taken note of the one area in which union members believe they have an advantage over non-union workers—job security.

"We have a very strong internal grievance procedure," says Hoxie. "I personally review every discharge, and the final decision is made by a corporate vice president."

Hoxie says that in the past four-and-one-half years, only one employee has made a complaint to the National Labor Relations Board—and that was found to be "without merit."

Schiffman vigorously defends the new contract, citing the increased health benefits and the fact that "we didn't have to strike."

He also defends the bylaws change which eliminates ratification of contracts by the membership on the grounds that "ratification never meant anything anyway. They'd get 15 guys in here to vote on it. What kind of ratification is that?"

The August bylaws change was approved at a general membership meeting attended by, according to Schiffman, "about 100."

Another little-noticed provision of the latest contract is that union dues will henceforth be deducted from the members' paycheck, instead of being sent in by the members.

Schiffman says the checkoff is good for the members, "because before if they got behind (paying dues) their insurance would lapse. Now they won't have that problem."

But some members also point out that the real beneficiaries of the checkoff are the local's five business agents, who will no longer have to act as collection agents.

"That's all those guys do, anyway; come around and harass people for dues," said one waitress.

Other members resent simply the idea of having union dues automatically deducted from their paycheck.

Few rank-and-file members interviewed would agree to be quoted by name, for fear of angering the union hierarchy. Even fewer on the management level of union hotels and restaurants would talk for the record, for the same reason.

There are members who are passionately pro-union, even if they see Local 30 as weak.

"Look, the way this hotel changes management every year, if we weren't in the union the new bosses could just come in and clean house," says a waitress.

Another waitress, who no longer works in a union hotel, adds: "Since I'm not union, they come around and tell me that, in my spare time, I have to polish the mirrors or clean up under the tables. They wouldn't do that in a union shop. I wish I was back in one."

But there are many others, workers at the lowest end of the economic scale, who pay $9.50 a month union dues and wonder what they are getting for it.

"I got behind on my dues for two months one time," says a bell captain, relating an incident that occurred a couple of years ago. "The business agent was getting gas in his car when he saw me and came running over. 'Where's your 18 bucks?' he said. So I gave it to him and he turned around and handed it to his son, who turned around and gave it to the gas station attendant to pay for the gas. And I thought to myself, 'That's where my union dues end up'."

ELECTION NEXT MONTH

CULINARY UNION POWER STRUGGLE INTENSIFIES

(By Jon Standefer, Staff Writer, The San Diego Union)

(March 15, 1982)

A controversial labor union official has moved a step closer to taking full control of the struggling, 4,700-member culinary workers Local 30.

The local's leadership, torn by internal conflict for the last two years, put up a unified front Thursday by nominating a slate of officers for next month's election who were hand-picked by Herbert "Pinky" Schiffman, a vice president at large of the international Hotel Employees and Restaurant Employees union (HERE) who is also a paid employee of the San Diego local.

Sources within Local 30 say the organization has been in turmoil since the November 1979 death of longtime secretary-treasurer Joe Tinch and the arrival about the same time of Schiffman.

Since then, these sources say, cash reserves of Local 30 have been depleted, Tinch loyalists have been forced out and replaced by Schiffman allies, and a much-heralded drive to organize the city's hotels and restaurants has never materialized.

Schiffman was put on the payroll here as an organizer and contract negotiator by Loretta Proctor, the business agent who was appointed to serve out the remaining two years and four months of Tinch's term as the local's top official. Schiffman quickly took over de facto control of the local, according to other union officers.

For a year and a half, sources say, the struggle for authority festered. Proctor, as secretary-treasurer, ostensibly made the final decisions but Schiffman, as an international officer, had the clout to enforce his wishes.

Last April 3, Proctor sent a letter of resignation to HERE general president, Edward Hanley in Cincinnati, saying she felt she had been "divested of my rightful authority."

Six days later she withdrew her resignation and instead charged Schiffman with "interference, intimidation, coercion, undermining and overriding me and my office as secretary-treasurer."

"Pinky did a 180-degree turn and started agreeing with everything Loretta said," says a local officer who asked not to be identified.

This officer and others believe Schiffman backed off because if the designation had gone through, a special election might have resulted in the election of someone outside Schiffman's circle.

Schiffman dismisses the dispute as a minor difference of opinion. Proctor did not return phone calls seeking her comment.

In any case, the two apparently have mended the fences, because Proctor was nominated for president of the local last Thursday. The election will be held April 6.

Nominated for the post of secretary-treasurer, the top position, is Marco LiMandri, 33, a Schiffman ally who has been in the union only 24 months—the minimum requirement to qualify for the nomination under the local's bylaws.

LiMandri has been seen as Schiffman's protege since he was hired as an organizer in 1980. He would not have been qualified to run for Proctor's post had she resigned last year.

LiMandri is the owner of a bail bond business but, according to Schiffman, he works full-time for the local as a business agent, handling grievances and acting as a go-between in matters involving union members and their employers. LiMandri would not answer questions Thursday and did not return a call Friday.

His father, Joseph LiMandri, was for years a business agent of the local until his retirement last year. The elder LiMandri has been identified as a member of the Los Angeles Mafia family by law enforcement agencies and by former Mafia hit man Jimmy "The Weasel" Fratianno.

While no one has alleged any criminal activity on the part of Joe LiMandri—his only conviction was on a 1936 drug charge in New York—law enforcement agencies note with interest his regular meetings with such organized crime figures as Mike Rizzitello, a Los Angeles mafioso convicted of racketeering in 1980 who has served prison sentences for armed robbery, kidnapping, extortion and insurance fraud.

Another Schiffman-LiMandri ally, Ray Lombardo, who is now a business agent, was nominated for vice president.

Opposing LiMandri for secretary-treasurer is John DeMeio, 58, a Local 30 business agent for nine years until he was fired by Proctor last year for what Schiffman says was making "misrepresentations to union members." DeMeio says he was ousted in a dispute over his wages. He is still a union member and thus eligible to run for office.

Jackie McDonald, another former business agent, will oppose Proctor, and Thelma Tulley, the maverick vice president of the local's executive board, is running against Lombardo to retain her seat.

Tulley, who was elected to the executive board before Proctor took over and before Schiffman arrived, is one of the few dissidents remaining in the local hierarchy.

Tulley did not want to run for reelection, but Friday she said "there's no way you can let the LiMandri bunch in without any opposition."

Schiffman, 66, has had several brushes with the law over union activities. He and two other international officers were indicted in 1979 on charges of conspiracy and embezzlement of union funds. Charges were dismissed against Schiffman and another officer, but the third officer was convicted.

Schiffman was convicted of a misdemeanor violation of the Taft-Hartley Act in 1975 in Atlanta for accepting an illegal discount for hotel rooms and received a probated term.

In 1978, after a three-week strike of union members in Miami, Schiffman's rented car was damaged by a bomb; he survived with minor injuries.

The next year he arrived in San Diego to handle contract negotiations and to bring new members into the local. About one-tenth of the estimated 48,000 workers in the hotel-restaurant industry in San Diego belong to the union.

Recalls a former union official: "I was excited when he came. I thought, 'Now we've got a real heavyweight.' He talked big about organizing this town. But after one contract negotiation, when he said he felt like the Messiah, I thought, hey, most of our people are still at minimum wage."

Schiffman says the local is "in great shape; better than it's ever been, with people represented better than ever before."

The hotel and restaurant industry traditionally has been a low-paying craft. Many workers earn the minimum wage, and benefits are seen as minimal. A waitress who retires now after 20 years in the union, for instance, will receive a pension of about $40 a month.

Schiffman was paid $22,496 by the local in 1980 while drawing an international salary, including benefits, of $75,094.

Schiffman says "four or five" businesses have been organized since he came here; he would identify only Sambo's restaurants as new union shops. However, another source disputed that claim and said only one restaurant—the Sambo's in San Ysidro—has been organized since Schiffman arrived, and employees there have yet to sign a contract. In addition, employees of the Westgate Hotel cut their ties with HERE and Local 30 in 1980.

Local 30's cash assets dropped from $207,632 to $160,811 during 1980, the last period for which records are available. Last year, sources say, the Cashflow problem was so great that the local's officers and business agents had to take a temporary, $50-a-week pay cut, and the local fell behind in per capita taxes that go to the international.

UNION BALLOT HAS A HIDDEN NAME: SCHIFFMAN

(By Jon Standefer)

(April 6, 1982)

"Young Turks Fight to Change Union's Image" was the headline on a recent article in La Prensa, the dual language newspaper, about today's election of officers for Local 20 of the culinary workers union.

The particular young Turk in question is Marco J. LiMandri, who is expecting to become the local's top official (secretary-treasurer) for the 4,700 unionized hotel and restaurant workers here.

LiMandri's goal, according to the article, is to change the union's image from one of kowtowing to the hotel and restaurant owners to one of vigorous representation of the workers—60 percent of whom are Mexican citizens or Mexican-Americans.

That's a laudable goal, but LiMandri hardly qualifies as new blood, though he has been in the union barely two years.

His most valuable assets as a candidate—name recognition and the blessing of the existing leadership—are closely linked with the traditional way the union conducts its business.

Young LiMandri is, after all, the son of Joe LiMandri, the longtime business agent for the local until his retirement last year. Joe spent a lot more time playing cards at the Stardust Hotel than he did representing union members; complaint about the elder LiMandri was one of the major reason workers at the Westgate Hotel voted to cut ties with Local 30 18 months ago.

Moreover, Marco is the protege of Herbert "Pinky" Schiffman, the vice president-at-large of the international Hotel Employees and Restaurant Employees Union who showed up here a couple of years ago and quickly took over the local.

Schiffman is a loud, profane ex-boxer who got on Local 30's payroll as an organizer for about $25,000 a year while drawing salary and benefits from the international of about $75,000, according to the latest filing reports available.

He is the kind of guy that goes around talking tough.

"You sure ask a lot of questions," he told a reporter recently. "You ever hear the expression, curiosity killed the cat?"

One of the first things Schiffman did here was to get himself named to the bylaws committee and rewrite the local rules.

That was important, especially when he began putting his friends into key positions.

Nancy Browning, for instance, was a cocktail waitress at Vacation Village when Schiffman decided to promote her. She was appointed to the executive board before it was discovered that she had been suspended from the union twice in the previous two years for non-payment of dues.

The old bylaws said that a member of the board had to have been a union member in good standing—no suspensions—for the preceding 24 months. When the question of Browning's eligibility was raised, Schiffman pointed out that the new bylaws made the 24-month rule applicable only to elected members, not appointed ones. Browning stayed on the board until she was named business agent.

Another bylaws change may affect the election. Under the old rules, incumbents for each position were listed first on the ballot and everyone else by alphabetical order.

Schiffman eliminated that rule, however, so today's ballot lists candidates in the order in which they were nominated. And guess what? Schiffman's people got nominated first, and will appear on the ballot that way: Marco LiMandri ahead of John DeMeio for secretary-treasurer, Loretta Proctor ahead of Jackie McDonald for president, Ray Lombardo ahead of incumbent Thelma Tully for vice president.

Perhaps the most important bylaws that Schiffman took out was the ratification clause. Now members don't even get to vote on a new contract. Whatever the leadership of the union agrees to, the members have to accept.

The fact is, Schiffman is running the local. If Marco and Schiffman's other friends don't win today, Schiffman will have to find another moonlighting job. And he knows it.

Standefer is an investigative reporter for The San Diego Union.

HERE LOCAL PICKS LIMANDRI

(April 8, 1982)

A slate of candidates headed by Marco J. LiMandri has won election as officers of Local 30, Hotel Employees and Restaurant Employees International Union.

LiMandri, 34, was elected to a three-year term as secretary-treasurer, the local's top position, by a 2 to 1 margin over former businesss agent John DeMeio. Fewer than 1,000 of the union's 4,700 members voted.

LiMandri was hand-picked as a candidate by Herbert "Pinky" Schiffman, vice president at large of HERE International, who has been in de facto control of the local for the past two years.

Senator RUDMAN. Mr. Faulkner, just one question at this point.

Counsel appears to be Mr. Eriksen at one point here. Was he only identified as counsel for Ms. Proctor?

Mr. FAULKNER. Yes, that is correct, sir.

Senator RUDMAN. Was he the same counsel or a different counsel than was involved in the changing attitudes, if you will, of Ms. Proctor about Mr. Schiffman?

Mr. SHAPIRO. Yes.

The letter came from Mr. Eriksen several weeks prior.

Senator RUDMAN. Can you tell us who counsel is to the union?

Mr. SHAPIRO. Counsel to the union is Ronald Domnitz of San Diego. We can provide the name of his firm for the record.

We had extensive conversations with him about all matters except for Ms. Proctor's deposition.

Senator RUDMAN. I just thought since there were a number of references to him that the record ought to show what counsel is. Do you have a statement for us, Mr. Shapiro?

Mr. SHAPIRO. No, Mr. Chairman.

Senator RUDMAN. Thank you very much.

Mr. John Armstrong, please come forward.

Mr. Armstrong, the rules of this particular subcommittee require the administering of the oath. I take it you have no objection?

Mr. ARMSTRONG. No, sir.

Senator RUDMAN. Raise your right hand.

Do you swear the testimony you are about to give during the course of this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ARMSTRONG. I do.

Senator RUDMAN. Thank you. Please be seated, Mr. Armstrong.

TESTIMONY OF JOHN ARMSTRONG, CRIMINAL INVESTIGATOR, DISTRICT ATTORNEY'S OFFICE, SAN DIEGO, CALIF.

Senator RUDMAN. If you would identify yourself, your name and address and then proceed with your statement.

Mr. ARMSTRONG. My name is John Armstrong, I live in San Diego, California.

I am currently employed as a criminal investigator. I am employed as a criminal investigator for the district attorney in San Diego.

For the past 5 years I have worked criminal intelligence. Prior to that I was an FBI agent for 28 years, retiring in 1977.

In the FBI I worked in Las Vegas, Reno, Palm Springs, and then San Diego, beginning in 1954.

From 1965 until I retired in 1977, I worked criminal intelligence and organized crime type investigations.

I would like to comment on the Culinary Union in the San Diego area over the years. During prohibition a small group of Los Angeles-San Diego Mafia members ran bars in Tijuana and bootlegged whiskey across the border into California. In the 1940's–50's this hoodlum group and their associates controlled about 75 percent of the sailor bars in downtown San Diego.

The Mafia-controlled bars made a good profit on the side—cheating drunken sailors, prostitution, and a little dope. An important element in their business was low overhead and low wages paid to off-duty Navy men and their wives working as bartenders and waitresses.

I recall an incident in those early years when a union organizer came to San Diego from Los Angeles. Several individuals visited him in his hotel room. These were bar owners. When he regained consciousness and got medical help, he returned to Los Angeles and these Mafia bars and restaurants never did have a union wage contract. About this time, during the early fifties, Joe LiMandri was brought into the culinary local as business agent and Gus Murio was brought in to run the bartenders local. Later the two locals merged.

About the LiMandris:

Joe LiMandri and his father Marco began their Mafia work in New York City before coming to San Diego. They were convicted of peddling dope and were sent to a New York State prison together. After their release they came to southern California in the late 1940's. Joe LiMandri married the sister of Joe Dippolito who later became the underboss in the Los Angeles Mafia family under Nick LiCata. San Diego was part of the Los Angeles Mafia at that time.

Joe LiMandri has a younger brother, John Michael LiMandri, who opened an insurance company in San Diego. John was a law school graduate but never practiced law.

For the next 25 years many of the important Mafia visitors coming to San Diego would contact Joe and John LiMandri and their father Marco. They came from New York, New Jersey, Las Vegas, Chicago, Detroit, and elsewhere.

When the old secretary-treasurer of the culinary local retired, Joe Tinch was selected for the job. Knowledgeable sources told me that Tinch had the help of Joe LiMandri and the late Irvin J. Kahn in securing that position.

Irvin Kahn was a San Diego attorney and a major land developer whose partner was Morris Shenker, the St. Louis attorney who was also Jimmy Hoffa's attorney. By 1975 the Teamsters Central States Pension Fund in Chicago had in excess of $1.3 billion in assets. Of that amount, $180.3 million, or 12 percent of the total fund, was invested in San Diego area real estate developments owned by Morris Shenker and the late Irvin J. Kahn. In addition, $62 million was loaned to the Rancho La Costa development in San Diego County operated by Moe Dalitz and his associates. For years Dalitz operated major Las Vegas hotels and casinos, dividing the skim each week with hidden owners among the Mafia gang bosses in the East.

Senator **Rudman**. Mr. Armstrong, we are going to suspend now for about 10 or 15 minutes. There is a rollcall vote before the Senate. I will have to make that and return.

So we will stand in recess for 10 or 15 minutes.

[Member present at the time of recess: Senator Rudman.]

[Brief recess.]

[Member present after recess: Senator Rudman.]

Senator **Rudman**. The subcommittee will come to order.

Mr. Armstrong, you may continue.

Mr. **Armstrong**. Do you wish me to resume?

Senator **Rudman**. I do. Thank you very much.

Mr. **Armstrong**. Also, by 1975 $63.5 million had been loaned to Allen Glick of San Diego to buy the Stardust and Freemont Hotels in Las Vegas. Glick got two more loans, for $1.5 and $4.3 million, for remodeling work, and $32 million to take over some bankrupt real estate developments and shopping centers foreclosed on by Central States.

Needless to say, at the time Joe Tinch was selected as secretary-treasurer of the San Diego Culinary Local, Irvin Kahn was an important man in the union lending business. The friendship between the Kahn family and the LiMandri family goes way back.

Soon after Tinch took office, he decided to organize the largest and most successful hotel chain in San Diego. His method was to bribe a hotel worker for payroll records to get home addresses for all employees. For this Tinch and two companions were arrested by my office and convicted of a criminal theft conspiracy.

During these years a dissident faction developed in the San Diego Culinary Local, led by several waitresses who attempted to drive Tinch and LiMandri out of office. They failed and were paid for their efforts with reduced work, poorer paying jobs, and loss of pension credits because of lapses in their employment.

We called witnesses before the Federal Grand Jury in San Diego and had the Labor Department examine the local's books and monitor the elections—to no avail.

The rank and file, many of them poor, hard-working waitresses, were too afraid and too busy trying to make a living to really organize and throw the rascals out. They had seen the leaders of the dissident group lose out on good jobs filled by the local hiring hall for hotel banquets and at the racetrack.

During these years, my investigation revealed that Joe LiMandri had a meeting with Herman "Blackie" Leavitt, a Culinary Union International Vice President, who ran the local in Los Angeles and who owned a small ranch in San Diego County. LiMandri later went to Los Angeles Mafia family meetings to discuss plans for an attempt to get a piece of the Culinary Union's Health and Welfare Fund in eye-care clinics, using an optometrist from Pennsylvania as a front.

But, as in the case of the Teamsters Central States Pension Fund, the big and powerful Chicago Mafia family and their accomplished and talented hoodlum associates got there first. As usual the poor southern California Mafia family simply looked on and drooled.

The Chicago outfit had a lock on the treasuries of the Teamsters Central States Pension Fund and the International Culinary Union. Nearby Palm Springs was developing into a health and recreation center for leading Chicago area hoodlums and Culinary Union officials.

The Chicago Mafia's contact man for the Culinary Union was Johnny Lardino. Lardino was described as a Chicago outfit man who was formerly a Culinary Union official in Chicago and was dropped from the rolls after he refused to answer questions before this U.S. Senate committee, which was investigating labor racketeering in 1958. Lardino was brought back into the union as an international organizer by the current International President, Edward T. Hanley, Jr. Hanley's sister Delores was married to another Chicago hoodlum associate, Frank Calabrese. Lardino reported directly to Tony Accardo of the Chicago family. Accardo has been living in the Palm Springs area for the last few years. Lardino's sister, Teresa, was married to Tony Scimeca, secretary of a Culinary Union local in Palm Springs. Teresa Scimeca was also made an international organizer by Hanley.

Another Chicago Mafia associate was Tony Anselmo, a Culinary Union international organizer who had a vacation home in Palm Springs and worked closely with Herman "Blackie" Leavitt. Patsy "The Torch" Batista, who ran Culinary Local 42 in Chicago, also owned a vacation home in Palm Springs. Hanley's general secretary and treasurer, John Gibson, was friends over the years with St. Louis Mafia underboss John Vitale as well as with Morris Shenker. Gibson had a home in Palm Springs, as did Hanley. The Chicago outfit had set up fronts like "Consultants and Administrators Incorporated" under Dan Milano, Sr., to sell their health clinic programs and to operate them as conduits for kickbacks.

At the time Al Pilotto was an officer in Consultants and Administrators, Inc. as was Angelo Fosco, regional manager of the Laborers Union and president of local 2 in Chicago—all Mafia members.

It was this element, working with their representatives like Tony Spilotro in Las Vegas, who were putting pressure on Al Bramlet, head of the culinary union in Las Vegas.

As you know, Bramlet was later murdered and buried in the desert. The Las Vegas local, one of the largest in the United States, had $24.5 million, more than half its assets, out in loans to the financially distressed businesses of Morris Shenker.

To get back to Joe LiMandri in San Diego, his health deteriorated and he spent most of his time playing cards at the Stardust Hotel and Country Club in San Diego.

In the spring of 1978, two international organizers were sent into San Diego from Palm Springs. They were "Pinky" Schiffman from

Miami and Michael J. Salerno from Gary, Ind. Schiffman had recently escaped death during a bombing incident in the Miami area.

I watched their organizing efforts in San Diego. It was an easy job. They would spend half the day playing golf at the Stardust, then attend the races at Del Mar and then confer with Joe LiMandri at the cardroom in the Stardust. I watched them meeting with people like Chris Petti.

Petti, a former Chicago loan shark collector, by now was the top organized crime figure in San Diego as a result of his close association with the Chicago mob through Tony Spilotro in Las Vegas; the Joe Bonanno family in northern California; and the Sica gang in Los Angeles.

During this period Joe LiMandri's brother, John, the San Diego insurance company owner, became a business associate of Vincent Albanese in San Diego and a member of his V&V Development Co. Old Gus Murio, the bartenders local boss in San Diego for many years, also retired and went to work for Albanese.

When old Joe LiMandri's health finally gave out he was replaced by his son Marco LiMandri, the current secretary-treasurer of local 30. I watched young Marco grow up. I watched his wedding reception guests arrive. I was even invited into the wedding reception by his father for a glass of wine. I declined, but thanked him for the invitation, just as I had years before when I watched old Joe LiMandri celebrate his 30th wedding anniversary in San Diego. This wedding anniversary was attended by notorious organized crime figures like "Papa John" Priziola—the Detroit family underboss who was wintering in San Diego, and Joe Dippolito, the Los Angeles family underboss, and old friends like Gaspare Speciale from Las Vegas, who controlled a New York Mafia family's loan shark fund in Vegas while working out of the Tower of Pizza Restaurant.

Young Marco LiMandri, the current Culinary Local secretary-treasurer in San Diego, first came to my attention in 1976 when he took over the ownership of the Classy Cat in downtown San Diego. This was a porno movie and bookstore, licensed porno movie and bookstore; he took it over from Pasquale John Antonelli, the leading porno establishment operator in San Diego at the time, who immigrated to San Diego from Newark after release from State prison.

Young Marco's partner in the Classy Cat was Anthony Michael Rizzi of Los Angeles—a very successful distributor of soft porno and homosexual publications who had hundreds of new racks on the street corners in southern California. Rizzi had been a close associate of the notorious Willie Bittner in Los Angeles and had been arrested for distributing obscenity.

Later, Rizzi and young LiMandri took over a legitimate business in San Diego amid complaints of intimidation. Rizzi pronounced himself president and Marco as vice president. They brought in as assistants Jim Vukich and "Skip" Young—both convicted dope smugglers.

By 1978 young Marco was running a bail bond agency in San Diego and attempting unsuccessfully to obtain a cardroom license in a San Diego suburb near the Mexican border. His attempts resulted in the city manager being fired.

Now, old Marco LiMandri is dead. Joe is retired, and young Marco is in place.

In this business, some things never cease to change.

Thank you, and I would now be glad to answer any questions.

Senator RUDMAN. Thank you very much, Mr. Armstrong, for the very comprehensive document on the relationships between these people and how they lead up to the current situation.

I have a number of questions for you, and we will try to get through them fairly quickly since we do have a number of other witnesses this morning.

Has it ever come to your attention that Mr. Leavitt has used any strong-arm tactics involving labor matters and labor organizations?

Mr. ARMSTRONG. Years ago there was talk during one of our investigations of stinkbombs being used in the Los Angeles area in labor disputes.

Senator RUDMAN. You mentioned Mr. Schiffman in your statement, Mr. Herbert Schiffman, and the fact that he spent a great deal of time doing things other than working at local 30 matters.

Could you tell us if he made any organizing contracts, had he succeeded in organization, and to what extent?

Mr. ARMSTRONG. I don't know. I don't know how successful he was in those contracts.

Senator RUDMAN. Another person you mentioned is Chris Petti. What is Mr. Petti's relationship with the LaMandri's?

Mr. ARMSTRONG. Close associate; not close, but a frequent associate.

Senator RUDMAN. Who is Nancy Sciacca?

Mr. ARMSTRONG. Nancy Sciacca came to my attention a couple of years ago. She was a waitress in a restaurant frequented by Mr. Petti, and many of the organized crime figures in San Diego. When Mr. Petti was arrested a couple of years ago for assaulting a young man with a baseball bat in a drunken rage, Nancy was with him at the time and has frequently been seen in the company of Mr. Petti. She was brought in and had to be given immunity before testifying before our county grand jury.

Senator RUDMAN. If I might point out for the record; is it correct that early this year she was hired as a business agent of local 30?

Mr. ARMSTRONG. That is what I understand.

Senator RUDMAN. Mr. Armstrong, we thank you very much for your testimony. It's significance I think will become apparent in later hearings of the subcommittee.

Thank you very much.

We will call Rachel Craft.

Ms. Craft, it is the rule of this subcommittee to administer the oath. So if you would please raise your right hand.

Do you swear the testimony you are about to give during the course of this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. CRAFT. I do.

TESTIMONY OF RACHEL CRAFT, FORMER EMPLOYEE, LOCAL 30

Senator RUDMAN. You may be seated.

If you would bring the microphone up fairly close, I think it would make it easier for all of us.

Will you please identify yourself by name and address?

Ms. Craft. My name is Rachel Craft and I live in Poway, Calif.

Senator Rudman. For the record, Ms. Craft, I am correct in stating that you are here under subpena of the subcommittee?

Ms. Craft. Yes.

Senator Rudman. It is my understanding that you have no statement you wish to make; is that correct?

Ms. Craft. True.

Senator Rudman. Ms. Craft, I will remind you that you are under oath, and I am going to ask you a number of questions, that you will answer for the subcommittee in response to our subpena.

First, would you please tell us when you first became associated with local 30 in San Diego?

Ms. Craft. I was hired by Joseph Tinch, the secretary-treasurer at that time, in August 1977, as a bilingual front cashier.

Senator Rudman. Who hired you for this position?

Ms. Craft. Joseph Tinch.

Senator Rudman. Were you promoted at some time after this?

Ms. Craft. Yes. In 1979 I was promoted to be the general bookkeeper of the local.

Senator Rudman. At some time were you promoted to manager-executive secretary?

Ms. Craft. Yes. That was in May 1981, as the old office manager retired.

Sentor Rudman. Who made this promotion?

Ms. Craft. Loretta Proctor.

Senator Rudman. During your time with local 30, was it your job to handle the local's books and records?

Ms. Craft. Yes. I did the complete posting and maintenance of the books of the local.

Senator Rudman. Can you tell us under what circumstances you left local 30, and when you left local 30?

Ms. Craft. I was terminated in April 1982 by the new secretary-treasurer, Marco LiMandri, and I have a statement here that the business representative of my union, the Office Professional Employees Union, made concerning the meeting regarding my termination. If it is all right I would like to read it. May I enter it into the record?

Senator Rudman. You may read it into the record.

Ms. Craft. This was made by Helen Laws, Secretary-Treasurer-Business Manager of OPEIU 396, San Diego.

> Sunday night, April 11, 1982, I received a call from Rachel Craft notifying the union that she had been terminated, which Marco LiMandri retracted, or put off until Monday morning, April 12, 1982.
>
> I met Rachel at 7:45 Monday morning when she told me of the incident. I went to the local 30 office and was asked by Marco LiMandri to come into his office. Pinky Schiffman was also in the room. Pinky said they wanted to talk to me before Rachel came into the room, to which I agreed; however, told them I wanted Rachel to hear everything said.
>
> Pinky told Marco to tell me why they chose to terminate Rachel, to which Marco related, "there were a lot of leaks going to their opposition." I asked if they were accusing Rachel of the leaks and the answer was that she even received phone calls on the private line.
>
> When Rachel came into the room, after a long hard screaming attempt to talk to Pinky—who incidentally stalked out of the room because I wouldn't succumb to his ranting and raving—I asked Marco to relate to Rachel the words he said to me regarding the leaks. He refused, saying, "If we are going to arbitration I will save them for the time as necessary."

Loretta Proctor came into the meeting with Rachel, Marco and me and reiterated the fact that she promised Rachel—as her boss—that when her term was up and it may become necessary to replace Rachel as the office manager, that she would still have her job as bookkeeper as she always did. Rachel did that local a big favor and saved them some $773 a month, by combining the two jobs, in wages and benefits. She would never have accepted the offer of the dual job if she knew there was a chance of her being terminated completely as the result of being office manager.

Marco LiMandri was elected on Tuesday, April 6, installed on April 8, told Rachel she was being terminated on April 9. Not enough time elapsed for Mr. LiMandri to come to the conclusion Rachel was not competent. In fact, no mention of her work was made, only that they were using article III, section 4, "In the event of change in administration, the employer has the sole selectivity of his office manager and/or private secretary. However, every effort shall be made by the employer to retain any employee so displaced in comparable employment." They claim there was no comparable employment but the bookkeeper position is still intact, not abolished and should be Rachel's

Senator RUDMAN. You mentioned in that statement something that you had been accused of, leaking information to opponents. Who were those opponents?

Ms. CRAFT. That was the opposition for the election.

Senator RUDMAN. Were you in fact involved in such leaks?

Ms. CRAFT. No. It is against my contract with OPEIU 396 to become politically involved. That would be grounds for immediate termination.

Senator RUDMAN. Have you taken any formal action to contest your firing?

Ms. CRAFT. Yes. I have filed a grievance with my union.

Senator RUDMAN. Have you had any offers of settlement with that grievance from the local?

Ms. CRAFT. Yes. I have had three offers, the first being at a meeting with Dave Hart of the State Mediation Conciliation. At that meeting there was one offer of $1,000 and then at the end, it roughly ended up being about $2,800 and then a $5,000 nontaxable settlement, and that was recently.

Senator RUDMAN. Did you accept that?

Ms. CRAFT. I have rejected all of them.

Senator RUDMAN. I understand you are now employed somewhere else; is that correct?

Ms. CRAFT. Yes.

Senator RUDMAN. When did Herbert Schiffman arrive at local 30, and what were the circumstances of his arrival to the best of your recollection?

Ms. CRAFT. In 1979, when I was there at local 30, I heard from other employees that Mr. Schiffman had come into town and Mr. Tinch had called the international and had talked to someone at the international and told him to get the son of a bitch out of my local, and that is what I heard. Then he came upon Mr. Tinch's staff.

Senator RUDMAN. Was there much opposition in your local to his arrival?

Ms. CRAFT. At first it was a question as to what he was doing there.

Senator RUDMAN. Did anyone call the international to complain?

Ms. CRAFT. Mr. Tinch did prior to his death.

Senator RUDMAN. What did Mr. Schiffman do after Mr. Tinch's death?

Ms. CRAFT. He was at the funeral services of Joseph Tinch and he made a small speech about unity and working together for the betterment of membership.

Senator RUDMAN. What was his activity toward the local after Mr. Tinch's death?

Ms. CRAFT. His activities toward the local were to be organizing places in San Diego and assisting Loretta Proctor in the management of the local, giving her advice, I would assume.

Senator RUDMAN. In any way, in your view, I am not trying to put words in your mouth, I am just trying to get an understanding of what his involvement was at that time since we are studying trusteeship and other forms of control, did he in any way in your view attempt, or did he in fact take over central control of that union?

Ms. CRAFT. Basically, yes.

Senator RUDMAN. You think he did?

Ms. CRAFT. Yes.

Senator RUDMAN. What was Loretta Proctor's position at this time?

Ms. CRAFT. She was the secretary-treasurer.

Senator RUDMAN. What were her feelings about Mr. Schiffman and his position there?

Ms. CRAFT. She questioned it because there was a lot of problems starting, arising with things not getting done.

Senator RUDMAN. Have you discussed with Ms. Proctor why she rescinded, her resignation?

Ms. CRAFT. Yes.

Senator RUDMAN. Why did she?

Ms. CRAFT. She rescinded it after she had had a conversation with Blackie Leavitt and she told me at that time that he had told her to do what was best by the union, to stick it out.

Senator RUDMAN. Did local 30 have experience with financial problems? Did they experience serious financial difficulties while you were there?

Ms. CRAFT. Yes.

Senator RUDMAN. Were they severe problems?

Ms. CRAFT. Yes.

It was very touch and go there for a while.

Senator RUDMAN. What were the reasons for the severe financial problems of this local?

Ms. CRAFT. The reasons, business agents were not doing their duties. They were not policing the different hotels. The revenue was not coming in as it should have been.

Senator RUDMAN. Did the payroll increase substantially?

Ms. CRAFT. Yes.

Senator RUDMAN. Did legal fees increase substantially?

Ms. CRAFT. Legal fees increased drastically. That was due to the arbitration and grievances.

Senator RUDMAN. Was the local ever in a deficit situation when in fact it was unable to meet its current obligations?

Ms. CRAFT. Yes; it was. It was at one time—well, the payroll was done but the checks were not issued to the business agents until the following Monday.

The office personnel got paid, but the business agents did not until the following Monday.

Senator Rudman. Was Loretta Proctor aware of this situation?

Ms. Craft. Yes.

Senator Rudman. Was there a point where the local per capita could not be paid?

Ms. Craft. Yes.

Senator Rudman. When was that?

Ms. Craft. That was in April 1981, and that was pertaining to that international convention, where they actually turned around and made it a loan to the local.

Senator Rudman. Are you aware of any situations where questionable hiring practices occurred at the local?

Ms. Craft. Yes. I was in opposition to the hiring of Jim Tobin and Leonard Bergl.

Senator Rudman. Who was Jim Tobin?

Ms. Craft. Jim Tobin was one of the international organizers that was sent out to organize in San Diego.

Senator Rudman. Are you familiar with local 30's auto, building, and other insurance policies?

Ms. Craft. Yes; I am.

Senator Rudman. Could you tell us if they were awarded, after any competitive bidding, or any letters sent out to solicit bids?

Ms. Craft. There were no bids, no letters sent out. That was always just renewed without any submission of bids.

Senator Rudman. Was this practice ever questioned by any of the executive board of the union?

Ms. Craft. It is my understanding the executive board questioned it.

Senator Rudman. What was the result of that?

Ms. Craft. It had already been renewed when the executive board had questioned it.

Senator Rudman. Where was this insurance placed?

Ms. Craft. It was Fordham Insurance Co., in San Diego.

Senator Rudman. Could you tell us if you have any views as to why the number of arbitration and grievance cases went up, thus causing the legal fees to increase rather enormously?

Ms. Craft. It was my understanding, really common knowledge there in the office, that Mr. Schiffman always had this view that if there weren't any grievances going on or arbitrations, the members weren't being represented. He was always stating prior to his arrival in San Diego that the members weren't being represented.

Senator Rudman. Do you have any idea what the approximate cost of legal services were during any 6-month period?

Ms. Craft. I know for 1 month it was over $4,000. That included the retainer fee, also, of, I believe, $450 a month.

Senator Rudman. We have talked to several people about dues collection. Were all dues being collected?

Ms. Craft. No. They were not.

Senator Rudman. Was that the fault of the business agents, Mr. Schiffman, or whose fault was that?

Ms. Craft. It was the responsibility of the business agents to go out and police their different designated houses. They were to make sure that all the employees had signed applications and were union members. If they would collect a portion of, let's say, an initiation fee after 30 days of employment, then it was up to the business agent to make sure they collected the balance and the monthly dues thereafter if the member did not come into the office.

Senator RUDMAN. Did these local business agents try to implement the checkoff as much as possible?

Ms. CRAFT. Yes. That was also part of the new contract that was signed, the latest one that is in effect now, to bring most of the houses under the master agreement; they have to be on dues checkoff.

Senator RUDMAN. Did you find that the business agents of the local who were being paid salaries did a great deal of work to earn these salaries?

Ms. CRAFT. They did not earn their money.

Senator RUDMAN. Did they do anything meaningful at all, to your knowledge?

Ms. CRAFT. Periodically.

Senator RUDMAN. Were there any restaurants, hotels, shops of any type organized while you were with local 30?

Ms. CRAFT. The only ones I can recall—there have been three, and they are two Sambo restaurants and one is an open shop where it is not mandatory to have the union membership and another is just a small coffee shop, also.

Senator RUDMAN. What did Mr. Tobin and Mr. Bergl do for the union?

Ms. CRAFT. They were sent down by the international to organize in San Diego and that is their main purpose. But also, I might stress here, too, that Jim Tobin also assisted in contract negotiations.

Senator RUDMAN. Was he involved in the contract negotiations with Rancho LaCosta Hotel?

Ms. CRAFT. Yes; Jim Tobin and Marco LiMandri negotiated the contract for Rancho LaCosta.

Senator RUDMAN. Do you know where the health and welfare plan was placed after that negotiation was completed?

Ms. CRAFT. With Rancho LaCosta they changed the health and welfare from being handled locally in San Diego into the international plan.

Senator RUDMAN. Could you tell the subcommittee anything about Ray Lombardo, business agent for local 30, and particularly, the circumstances of his departure?

Ms. CRAFT. Ray Lombardo was brought in at the same time Marco LiMandri was to be a business agent organizer and his duties were to be business agent and police different houses that were designated to him, but later on when our financial situation was touch and go, a letter was written to the international regarding Raymond Lombardo and then we were receiving a subsidy and his designated title was special international organizer.

Senator RUDMAN. Have you been interviewed by the FBI as to the finances of this particular local?

Ms. CRAFT. Yes; when I was first put into the office manager and executive secretary position, the FBI approached me and that was Ed Morey.

Senator RUDMAN. Just two questions for you now.

First, at the time that you left the employ of the local, if you had to designate one person, regardless of the title, who was essentially in control of that local, who would that person be, in your opinion?

Ms. **Craft.** Pinky Schiffman.

Senator **Rudman.** No question about that in your mind, having worked there?

Ms. **Craft.** No; but Loretta was aware that she would be responsible for anything.

Senator **Rudman.** Is there any other information that you would like to provide to the subcommittee on your own?

Ms. **Craft.** The only thing I can think of here is that I would like to make a correction to Mr. Faulkner's statement by saying that prior to the election a Spanish-speaking business agent had been hired for quite some time with the local, but she had left.

Senator **Rudman.** Counsel, Mr. Weiland, has several questions.

Mr. **Weiland.** Just very quickly, let me ask you about the situation regarding assets of the union.

You stated that at one point the assets fell to a point where the payroll couldn't be met over the weekend at least. We have charted the assets and the dues collections with this local as we have for other locals. How do you explain the fact that there was a time in about early 1980, where the assets did begin to rise according to our own background?

Ms. **Craft.** The reason the revenue coming in increased was because of this contract clause with automatic payroll deduction of dues initiation and reinstatements, and also Loretta Proctor and myself were going to the different hotels and restaurants and talking to the payroll people pertaining to problems with this checkoff method. It was the result of this situation, money would be coming in on a regular basis.

Mr. **Weiland.** Did Ms. Proctor actually offer to loan the local money at the time of the asset situation, as bad as it was?

Ms. **Craft.** She did.

Mr. **Weiland.** She was well aware of the financial strains?

Ms. **Craft.** Definitely.

Mr. **Weiland.** Thank you.

Senator **Rudman.** Thank you very much.

Mr. Herbert Schiffman?

Mr. Schiffman, it is the custom of this subcommittee to administer the oath, if you would raise your right hand.

Do you swear the testimony you are about to give in the course of this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Schiffman.** I do.

Senator **Rudman.** You may be seated.

TESTIMONY OF HERBERT SCHIFFMAN, INTERNATIONAL VICE PRESIDENT AND ORGANIZER

Mr. **Schiffman.** I have a prepared statement.

Senator **Rudman.** If you would sit down behind those microphones, before you start your prepared statement, I would appreciate it if for the record—first, you are here under subpena which service was accepted by your counsel; second, if you would please identify yourself by name and current address?

Mr. **Schiffman.** Herbert Schiffman, 255380 White Water Club Drive, Palm Springs, Calif.

Senator **Rudman**. Fine.

You may proceed with your statement.

Mr. **Schiffman**. Members of the subcommittee, I am appearing today pursuant to a subpena issued to me through my attorney, Anthony Cardinale, Boston, Mass.

As counsel—the subcommittee has been informed that my attorney, Mr. Cardinale, that he has informed Mr. Weiland and Mr. Shapiro, he could not attend as a result of his contracting hepatitis. So he is unable to appear with me today. He has previously requested a continuance or postponement.

However, counsel for the subcommittee informed him it would not be possible to postpone the proceedings and because of my longstanding relationship and confidence in Mr. Cardinale, I will refuse to accept any substitute counsel. As a result I hereby request a postponement of my appearance until my counsel is able to be present.

If the subcommittee insists on asking questions at this point without my counsel being present, I must respectfully refuse to answer any questions based on my constitutional rights under the 5th and 14th amendments.

This request was made about a week ago. I think Mr. Weiland and Mr. Shapiro were aware of this.

Senator **Rudman**. Is that the conclusion of your statement?

Mr. **Schiffman**. Yes.

Senator **Rudman**. Mr. Schiffman, your lawyer notified us of this on Friday, just so the record will be straight.

Mr. Schiffman, we are going to recess briefly here. I was aware of this situation, of course, before we started here this morning. But I just want to ask you a question which possibly you can answer without invoking your constitutional rights because I don't think it is a question which goes to any substance. It is more of a procedural question, Mr. Schiffman: If we in fact grant your request, which I am now going to take under consideration, and Mr. Cardinale recovers, which we certainly hope he does, and he is able to accompany you here, be it several weeks or whatever, are you going to answer our questions?

Mr. **Schiffman**. I can answer.

Senator **Rudman**. If you will let me finish my question. Are you going to answer our questions, or do you think there is a possibility you will also then invoke your privileges when Mr. Cardinale is with you?

Mr. **Schiffman**. We had a conversation and we felt that the last—as I said, I would have to get back with him—the last time we spoke I felt there was nothing to hide. I am proud of what we have accomplished, what we have done, and I have heard some things here. And he was going to go over some of these questions, Mr. Shapiro was going to send him some, I think, or whatever, and it was our intention—we had nothing to hide—to answer them.

Senator **Rudman**. So your answer to me is what?

Mr. **Schiffman**. At present we feel that if we are going to have to be here, and in all probability, again, it is up—we will decide, I will come back prepared.

Senator **Rudman**. Will that then include answering under oath, under subpena, questions about your past associations of which we have a number we would like to talk about? I assume then you will answer those for us, also?

Mr. SCHIFFMAN. Past associations, well, as I said, Mr. Shapiro was supposed to take that up, the question was supposed to go to Mr. Cardinale, with the questioning line, and then we were going to discuss it.

Senator RUDMAN. So, in other words, you are willing to discuss some things, but it is possible upon receipt of the questions, and you have the privilege, you might want to invoke your privileges under the Constitution as to past associations? Is that possible?

Mr. SCHIFFMAN. I have nothing to hide with my past associations.

Senator RUDMAN. So you are willing to discuss fully your past associations with us?

Mr. SCHIFFMAN. I said I would discuss it after I get the questions with my attorney.

Senator RUDMAN. I think the record will show what your answer is. We will stand in a 5-minute recess while we consult.

[Senator present at time of recess: Senator Rudman.]

[Brief recess.]

[Senator present after recess: Senator Rudman.]

Senator RUDMAN. Mr. Schiffman, there are a few things I would like to get on the record here, so we have a clear understanding.

No. 1, we want you to understand that your lawyer, Mr. Cardinale, in discussing with our counsel his health situation, told us that it was his view you should procure other counsel. Mr. Cardinale felt that you could have had other counsel for this hearing. That is No. 1.

No. 2, your counsel, Mr. Cardinale, has been furnished with question areas that we intend to get into with you and it has never been Mr. Shapiro's representation, nor has it ever been a policy of this subcommittee, to furnish in advance detailed questions that will be asked, only question areas.

Mr. Cardinale had those question areas, and indicated to counsel that he thought that they were generally appropriate for your testimony here.

No. 3, I want to say to you that we are very interested in your testimony and that we intend to call you back at an appropriate time. We want to put you on notice here that if Mr. Cardinale, for any reason, is unable to make it at that time, we expect that you will have other counsel. If you don't, you do so at your own peril and you are hereby placed on notice.

Mr. SCHIFFMAN. OK, I understand.

Senator RUDMAN. No. 4, in procuring your testimony, if for any reason, and I sense a certain equivocation in your answers to my questions, you decide to take your constitutional immunities before this subcommittee, we want to put you on notice here, that we have the power to seek and grant use immunity. We might well do that in your case, which of course will guarantee you immunity from prosecution for things that you testified about before the subcommittee. Of course, we cannot guarantee you immunity from your friends.

Finally, I want to say to you that this subcommittee believes in fairness and believes in the treatment of all witnesses——

Mr. SCHIFFMAN. I appreciate it.

Senator RUDMAN [continuing]. With due process and care, and we—although feeling you could have procured other counsel between Friday and today—respect your desire to have your counsel present. So based on your request, we will grant a postponement of your testimony today.

The staff will notify you in the near future, after consultation with Mr. Cardinale, that you are requested to return here, and I might say, at your own expense the next time.

Finally, Mr. Schiffman, I would ask that you consider carefully your course of action the next time before this subcommittee because we have a number of questions that we think we are going to get on the record, and with that, I think we have nothing else to add.

I don't think we have any other witnesses this morning.

Mr. WEILAND. That is all we have today, Mr. Chairman.

Senator RUDMAN. The subcommittee will stand in recess.

[Member present at time of adjournment: Senator Rudman.]

[Whereupon, at 11:58 a.m., the subcommittee adjourned to reconvene at 10:25 a.m., Thursday, September 30, 1982.]

HOTEL EMPLOYEES & RESTAURANT EMPLOYEES INTERNATIONAL UNION

THURSDAY, SEPTEMBER 30, 1982

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10:25 a.m., in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; and Senator Sam Nunn, Democrat, Georgia.

Members of the professional staff present: S. Cass Weiland, chief counsel for the majority; Eleanore J. Hill, chief counsel for the minority; Katherine Bidden, chief clerk; Howard Shapiro, Rod Smith, and Barbara Jeanne Cart, staff counsels; John Sopko, assistant counsel to the minority; Dave Faulkner, detailed investigator from the Federal Bureau of Investigation; and Sarah Presgrave, executive secretary to the chief counsel of the majority.

[Member present at convening of hearing: Chairman Roth.]

Chairman ROTH. The subcommittee will be in order.

[The letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any Member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on the Hotel Employees and Restaurant Employees International Union, to be held on September 28, 29, and 30, 1982.

WILLIAM V. ROTH, Jr.,
Chairman.

SAM NUNN,
Ranking Minority Member.

Chairman ROTH. We are pleased to have before us this morning the attorney general of New Jersey, Irwin I. Kimmelman, and the director of the division of gaming enforcement.

Now, this subcommittee heard some very important testimony last June about one of the most notorious hotel worker locals, local 54 in Atlantic City. Since that time, the father of one of our witnesses has been shot, the vice president of the local has been indicted for murder, and the reputed head of organized crime in the area has been jailed in a bail revocation. In the meantime, the State of New Jersey has pushed ahead with its efforts against local 54.

We are very pleased to have the testimony of these two gentlemen on these subjects as well as a proposal in the State legislature to give States more authority over unions in legalized gambling jurisdictions.

Mr. Kimmelman and Mr. Sturges, will you please come forward?

Gentlemen, if you would stay standing. Under the rules of the subcommittee, all witnesses must be sworn.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KIMMELMAN. Yes, sir.

Mr. STURGES. Yes, sir.

Chairman ROTH. Thank you, gentlemen. Please be seated.

TESTIMONY OF HON. IRWIN I. KIMMELMAN, ATTORNEY GENERAL OF NEW JERSEY, AND ROBERT STURGES, DIRECTOR OF THE DIVISION OF GAMING ENFORCEMENT

Mr. KIMMELMAN. Good morning, Mr. Chairman.

Chairman ROTH. It is nice to see you this morning, Mr. Kimmelman. I was happy to be with you yesterday.

I would ask you, Mr. Kimmelman, to proceed with your statement.

Mr. KIMMELMAN. Yes. I have with me assistant attorney general, Robert Sturges, who is head of our division of gaming enforcement. I would like to introduce him to the subcommittee.

Chairman ROTH. We are very pleased to have Mr. Sturges here.

Mr. KIMMELMAN. Senator, we do appreciate the opportunity to address an issue which I believe is of vital importance to New Jersey's program of casino integrity. I am referring to casino regulation and its impact on labor unions representing or seeking to represent State licensed gaming industry workers.

As you know, this is an issue which although it is local in nature and of special concern to the State of New Jersey, it has nevertheless captured nationwide attention. It has sparked intense controversy in legal circles. It has raised some fundamental questions as to the State's ability to effectively monitor this sensitive aspect of casino gaming.

I am here today on behalf of Governor Kean who has recommended to this subcommittee the amendment of Federal labor laws to give New Jersey clear and explicit authority to regulate unions representing casino employees in our State, and also I am here on behalf of our State legislature, the lower house of which has adopted a resolution memorializing Congress and the President to enact laws to give New Jersey the power to regulate unions with respect to their casino activity. This resolution is expected to be passed very shortly by our State senate with bipartisan, unanimous support, Senator.

These requests were triggered by recent court challenges to our statutory mandate in this area as well as by the decision of a U.S. district court which suggests that certain Federal labor laws might preempt the State's ability to take corrective action against an unfit casino union. To the extent that the district court decision, which is now under appeal, raises the question of preemption by existing Federal laws, and because State regulation of casino unions is essential to protect the integrity of the entire industry, we believe that legislative clarification is necessary.

New Jersey, like all other States, has a basic constitutional provision that gambling is illegal except where authorized by law or by referendum of the people of the State. By public referendum in 1976, the electorate of New Jersey voted to amend the State constitution to authorize the legislature to permit certain gaming activities confined solely within the boundaries of Atlantic City.

The proponents of casino gaming at that time promised an urban renaissance, a strengthened resort industry in our State, as well as increased revenues devoted exclusively to the State's elderly and handicapped citizens. It was also recognized at that time that this promise of renaissance in Atlantic City was fraught with danger.

The adoption of this gaming referendum came only after the public was repeatedly assured that New Jersey would have the strongest regulations of casinos in the world; that organized crime would not be allowed to infiltrate the industry in any form; that operating controls would be stringent; and that only those of the highest character, integrity, and competence would be allowed to participate in casino operations.

Consideration of implementing legislation engendered intense public and legal review in our State. The legislative hearings and studies largely confirmed that which had been genuinely suspected.

Casino gaming is unique. It has had a checkered history in other jurisdictions, particularly in Nevada where it was reputed that organized crime figures dominated the industry during its early development many years ago. The cash nature of the business—that is, the huge amount of money that flows daily through the casino operation—and its large number of unrecorded transactions make it an extremely attractive and lucrative and vulnerable target for the criminal element and others associated with them, such as loan sharks, extortionists, and prostitutes. These legislative findings on the part of our State simply echoed the long held Federal view—when I say Federal I mean the view of the Federal Bureau of Investigation—that gaming is the lifeblood of organized crime.

Hence, the concern in our State was to guard against a similar involvement.

The New Jersey Legislature responded to this challenge by enacting the toughest, tightest, and most complete casino regulatory scheme of any jurisdiction, anywhere, at any time. Our Casino Act thus provides for a comprehensive casino employee licensing scheme and makes licensure a privilege. Both the State Casino Control Commission and the division of gaming enforcement have been vested with the broadest reach of regulatory and investigative powers consistent with law.

For your information, Senator, under our regulatory scheme, the casino control commission conducts hearings and issues licenses, it collects fees and taxes, and promulgates regulations pursuant to the Casino Control Act. The division of gaming enforcement, which is part of the attorney general's office, conducts investigations of license applications and assists the casino control commission in its enforcement duties and generally polices gaming activities and the industry.

Let me say this: New Jersey's tough licensing requirements and full disclosure laws have effectively cut off hidden ownership and control of management as possible avenues of access for organized crime into our casinos. I am satisfied that as a result of our strict regulatory scheme and our vigilant law enforcement machinery, organized crime has not infiltrated into the ownership or management of our casino/hotels. The games are conducted fairly and stringent auditing controls are accounting for every dollar wagered.

But the New Jersey legislators also realized that law enforcement efforts must extend well beyond and not be simply limited to the investigation of casino management if we are to fully insure against back door access into the casinos. It was strongly felt that regulatory attention must focus not only upon those who own and operate casino/hotels but upon those who service them as well. As a general matter, the threat of organized crime infiltration into casino operations is most acute in the area of ancillary businesses, such as linen supplies, tradesmen, trash hauling, but particularly labor unions which represent the various employees who work in the casino/hotels. These kinds of businesses and unions are particularly suited to take advantage of casino vulnerabilities. They are also prey to organized criminal influences who tend to gravitate to those areas where the pressure is least.

I need not expound before this subcommittee on the effects an unscrupulous labor union can have on the operation of any business. Nor need I comment in detail on the historical law enforcement difficulties which have been encountered in connection with organized crime dominated unions. Suffice it to say that these concerns are well documented.

Nevada's gaming statute, for instance, imposes registration and filing requirements on casino employee unions similar to those of New Jersey and specifically notes in its legislation that in the past, individuals not suitable for association with licensed gaming have attempted to gain control over unions representing gaming casino employees. As a result, the State of Nevada deems it necessary and in the public interest to determine the suitability of any person who performs significant functions in the representation of gaming casino employees in the State.

It has been shown historically that casino gaming, given its unique characteristics, is a vulnerable target for the criminal element. Indeed, recent testimony presented to this very subcommittee indicates the magnitude of the law enforcement problem posed by the presence of the casino gaming industry in New Jersey. The potential control of a union by corrupt officials multiplies the ill effects which can be caused by the criminal element.

This is so because organized labor is in a prime position to exert tremendous pressure over the casino industry. What would a casino owner pay for labor peace? How much is it worth to keep a business that grosses between $500,000 and $1 million a day free of a strike? A corrupt union could extort outright payments or use its power of persuasion to dictate what firms get the lucrative ancillary service contracts within the casino industry. Again, I am referring to contacts for things like linen supplies, trash hauling, limousine services, food and beverage distribution that could be worth millions of dollars.

Prior to the adoption of the New Jersey Casino Control Act in 1977, our legislature heard the stated concerns of law enforcement officials who warned of the traditional links between organized crime and certain segments of organized labor. The Governor's Staff Policy Group at that time found that both legally recognized and unrecognized employee organizations have been reported to be a source of corruption in other jurisdictions. The State of New Jersey Commission of Investigations reported that there were few better vehicles utilized by organized crime to gain a stranglehold on an entire industry than labor racketeering.

Recognizing the explosiveness of the combination of labor racketeering and gambling, our legislature required unions representing casino/hotel employees to register and undergo investigation and scrutiny for the purpose of the statutorily defined disqualification criteria as a condition to collecting dues from and administering benefit plans on behalf of licensed employees.

Pursuant to our statutory duty, our office—that is, the division of gaming enforcement—investigates each registered union and reports its findings to the casino control commission. Our efforts have included, and will continue to concentrate upon, investigations into possible organized crime infiltration of certain unions in Atlantic City.

On the other hand, our regulatory scheme as it relates to labor unions is not as strong as the law enforcement community would like. This is because our legislators were sensitive to existing Federal law which places jurisdiction over the country's labor movement at the Federal level. Because of this potential conflict, our legislators tried to strike a balance between State and Federal concerns and to accommodate the mutual interests of the dual Government regulators in this field.

Consequently, New Jersey's Casino Control Act does not require the licensing of casino labor unions, merely their registration. Also, our casino control commission does not have the right to ban a union from operating within the casino industry, but it can hit the union where it hurts most—in the pocketbook—by denying the union the right to collect dues or the right to administer benefit plans.

Finally, our statute has been interpreted so as to place the burden on the Government to affirmatively prove disqualification, rather than upon the registrant union to demonstrate compliance with our criteria. This puts law enforcement officials at a tremendous disadvantage, particularly when union officials invoke the fifth amendment and refuse to answer questions, as they have repeatedly and recently done before both this subcommittee and the New Jersey Casino Control Commission.

I would hope, Senator, that our efforts in this area not be misconstrued as being antiunion or antiworker. That is simply not true. These efforts are not antiunion but, rather, are antiorganized crime. Our purpose is to insure against mob domination of legitimate unions, to the end that casinos be free of undue pressure from these elements. The measures we take to reach this goal in no way discourage either employees from exercising their right to organize or legitimate unions from fulfilling their duties to collectively bargain on behalf of the employees they represent.

There are approximately 2,300 labor unions presently operating in New Jersey, the overwhelming majority of which do not come within the regulatory reach of our department or the casino control commission. The handful which do are not regulated because of their status as employee representatives; that is, we do not regulate these unions because they are unions as such. We exert some degree of control based solely on their relationship and close proximity to casino gaming, which is a matter reserved to State control and deserving of our strictest scrutiny. If regulation of the casino industry itself is to be meaningful and effective, it must necessarily encompass those allied businesses, concerns and organizations capable of exerting influence over its operations.

In this respect, Senator, unions have not been targeted for singular abuse or harassment. It would indeed be an anomaly to suggest that while employees of these casinos have to undergo rigid licensure requirements, the unions which represent them as fiduciaries of their trust are held to less exacting standards, or worse yet, are immune from any standards.

As I indicated, New Jersey's efforts to monitor labor unions in the context of casino gaming are being challenged in Federal court.

[At this point Senator Nunn entered the hearing room.]

Mr. KIMMELMAN. Although a U.S. district court has allowed State hearings on a union's qualifications to go forward, the decision suggested that Federal labor laws might preempt the State's ability to take corrective action against a union once it has been found to be disqualified. We disagree with that intimation of preemption, and while it is under appeal, we nevertheless feel that legislative clarification from the Congress is necessary because of its existence.

We therefore strongly urge the adoption of Federal legislation specifically authorizing any State with a casino gaming industry to register and regulate labor unions engaged in representing casino and hotel employees. I firmly believe that such a regulatory scheme is essential to protect the integrity of the entire casino industry. And to the extent that existing law is unsettled, congressional endorsement and approval of our power in this respect is absolutely necessary.

Without that right, States may be powerless to prevent organized crime from pushing its way into the casino industry under the guise of a union card and a labor contract. The possibility of such infiltration seems evident in the attitude of union officials who have remained defiantly silent in appearances before official investigatory bodies. In order to keep our promises to the citizens of New Jersey that Atlantic City's casino industry will be clean and above reproach, we must be given the clear right to regulate casino unions by applying the same set of high standards that are applied in the regulation of casinos.

I would like to refer just to the headline of a magazine article appearing in New Jersey of local circulation, but it says it all very succinctly. "New Jersey has gone to extraordinary lengths to keep casinos free from the influence of organized crime. But while the mob has steered clear of the gaming laws, it has been infiltrating the periphery." That is what we are here about.

A delegation of authority to the State of New Jersey to regulate labor unions in the context of casino gaming in our opinion would neither conflict with nor interfere with Federal labor policies. To the contrary, both the Labor Management Reporting and Disclosure Act as well as ERISA establish disqualifications from holding union office. The very fact that Congress itself has imposed the same type of restrictions as New Jersey seeks to impose is certainly evidence that our dual schemes do not frustrate one another.

Although our Casino Control Act and the national labor legislation have different purposes, they both protect employees, their unions and the public. New Jersey, however, does so only in the limited context of casino gaming. In this respect, our respective statutes are complimentary, with New Jersey supplementing the Federal effort in an area of unique local concern.

For all the reasons I have mentioned today, we strongly urge Congress' adoption of legislation authorizing New Jersey, as well as any State with a casino industry—there is another State I have referred to, Nevada, and there are several other States which have currently before their electorate referenda to authorize casino gaming—we urge that this legislation protect all of these States and give them the authority to regulate and register labor unions engaged in representing casino gaming employees.

We thank you for the opportunity of hearing our views, and, of course, we will be pleased to respond to any questions you may have.

Chairman ROTH. Thank you, Mr. Kimmelman. We appreciate your very enlightening statement. I think before we go to any questions I would like to ask Mr. Sturges if he wants to make any comments.

Mr. STURGES. Thank you, Senator.

As the attorney general has indicated, the division of gaming enforcement is the division of Attorney General Kimmelman's office which is responsible for investigating all applicants for casino licenses in Atlantic City and for enforcing the provisions of the Casino Control Act. In addition to investigating these casino license applicants, we have the responsibility to investigate labor unions. Of course, local 54 is one of those unions. They presently represent approximately 10,000 out of 30,000 casino employees in Atlantic City.

The purpose of my appearance here with the attorney general today is to report on the progress which the division of gaming enforcement has made since June when testimony was last heard before this committee about local 54 and to inform the subcommittee of the decision of the casino control commission with respect to that case and also to report on some major developments which have taken place outside the context of the local 54 hearings.

On June 4, the division of gaming enforcement opened its case before the casino control commission in opposition to the registration of local 54. The basis for our opposition was the clear and present danger which this union represented to the casino industry and local law enforcement. For the most part, this was based upon the relationship which existed between Nicodemo Scarfo, the ranking head, of the Angelo Bruno family, and certain officers of the local, and president Frank Gerace and grievance manager Frank Materio.

Under our Casino Control Act, we alleged that this association was inimical to the policies of casino gambling and inimical to the policies of the Casino Control Act. Hence, this association disqualified these labor officials as far as we were concerned.

It should be noted that we didn't allege specific criminal acts. In this respect, the effectiveness of our Casino Control Act I think is evident since we are not required to await indictments or some major crisis or scandal before taking action. The act allows us to anticipate problems and to take action even before criminal cases are made. Not only is this an extremely effective weapon in our fight against organized crime in Atlantic City, but it also helps reinforce the public trust and confidence in our regulatory system.

I would like to briefly discuss the decision of the casino control commission in the local 54 case, but before I do, I would just like to briefly state that the division of gaming enforcement during our investigation of local 54 and during the hearings themselves received outstanding cooperation from Federal, State, and local law enforcement agencies. This cooperation was a major contribution to our ultimate success in the case. And, in particular, I think the subcommittee should be aware of the cooperation extended by the U.S. Marshals Service and the staff of this subcommittee, particularly Chief Counsel Cass Weiland and Investigator Dave Faulkner, in helping to arrange for the appearance of Joseph Salerno in our hearings. In addition, agents of the Federal Bureau of Investigation testified in our hearings before the casino control commission.

After approximately 17 days of hearings before the commission, and after all of the evidence was in, the casino control commission agreed with the recommendation of the division of gaming enforcement in a four-to-one vote that Frank Gerace, the president of the union, and Frank Materio were disqualified under our Casino Control Act because of their associations with Nicky Scarfo and other organized crime figures. A third official, Karlos LaSane, a business agent of local 54, was also found to be disqualified due to a criminal record which he had.

The commission specifically ruled that if these disqualified officials are not removed by October 12, 1982, then sanctions will be imposed against the union. The commission indicated that it intended to prohibit the collection of dues by this union on October 12 if that removal had not taken place. And furthermore, it has asked for specific recommendations from the attorney general's office as to what other sanctions might be permissibly imposed under our Casino Control Act.

As Attorney General Kimmelman has testified, the Casino Control Act provides that a disqualified union can be prohibited from collecting dues or administering pension and welfare funds. With the exception of local 54's severance fund, local 54 does not itself administer pension and welfare funds. Rather, the international does.

This raises some issues which we will have to address in the days ahead and ultimately make a recommendation to our commission next week sometime. But quite predictably, at 3 p.m. on Friday, we have been advised by local 54 attorneys that they are moving in Federal court to amend the complaint they originally filed last year before Judge Brotman seeking an injunction against any imposition of sanctions by the casino control commission.

You may recall that the Federal District Court in New Jersey had originally asked the State to stay its proceedings against local 54 back in September 1981. At that time Judge Brotman ultimately ruled in April 1982 that we could proceed with our hearings, that that did not itself raise a preemption problem; but once sanctions were ultimately imposed, he expressed some concern in his opinion about that particular action which may be taken in the future. That is why we are back in Federal court.

I have also been asked to update the subcommittee on developments outside the confines of the casino control commission hearings on local 54. I am very unhappy to report that the pattern of violence associated with the Angelo Bruno family has continued and, most significantly, it may have even intruded into the local 54 hearing we recently held and into proceedings held by this subcommittee.

As I indicated earlier, Joseph Salerno provided some extremely valuable testimony during our local 54 case, as he did before this subcommittee. The casino control commission spent some 6 pages of their local 54 opinion discussing Mr. Salerno's testimony and relying upon his credibility. Mr. Salerno was not a paid informant, nor convicted felon who had been pressured to cooperate, but, rather, he testified in our hearings as a cooperating citizen, in good standing, and we are grateful to him for the cooperation and the courage he showed in coming forward to testify.

Approximately 1 month after Mr. Salerno testified in our hearing, on the night of August 10, 1982, Joseph Salerno's parents had just finished locking up their office in a motel they owned in Wildwood, N.J. At that time, someone was attempting to gain entry into the office. Mr. Salerno looked outside and saw a man in a jogging suit with a hood up over the back of his head. He opened the door and at that time this intruder stepped back one step and fired two shots. One of those shots struck Mr. Salerno in the neck and the other shot missed.

Mr. Salerno survived this attack, and for the next 6 weeks, until the motel closed for the season, the division of gaming enforcement and State police detectives assigned to the division of gaming enforcement provided 24-hour protection to Mr. Salerno's parents.

This attack was—there was no prior indication that anyone had that this type of thing could be anticipated. One of the obvious hypotheses of the investigators involved in this shooting—and, by the way, the local police, State police, the FBI is also assisting in this investigation, and all available resources are in progress in attempting to solve this shooting. But one of the obvious theories is that this was an act of retaliation for Mr. Salerno's cooperation. Now, whether this theory is borne out by the ultimate facts or not, it is clear that both Joseph Salerno and his parents firmly believe that Nicky Scarfo was responsible for this act. And, you know, who can blame them for feeling that way? Who is really in a position to strongly disagree with their conclusion?

The day after, as I said, the day after this particular incident, Mr. Salerno has been under continuous protection. Joseph Salerno is in the witness protection program, as I am sure you are all aware. I understand that offer has also been made to his family, to be relocated if they so choose.

On August 17, Federal prosecutors successfully moved in Federal court to have Mr. Scarfo's bail revoked. He has been remanded to La Tuna, Tex., where he is presently serving his sentence for illegal possession of a weapon.

The last item I would like to bring to the subcommittee's attention involves Albert Daidone who up until September 13 was vice president of local 54. Mr. Daidone was a very curious figure during the local 54 hearings. He insisted on being present during 15 hours of questions of Mr. Gerace over a period of 4 days. Mr. Daidone wanted to be present during all questions that were asked of Mr. Gerace. He was also present when we attempted to serve Mr. Gerace with a subpena, and it was Mr. Daidone who advised us that Mr. Gerace would not be coming out of his house to accept any service of his subpena. Ultimately Mr. Gerace was successfully served.

In any event, on September 8, just 5 days before our summations in the local 54 case, Albert Daidone was indicted in the eastern district of Pennsylvania on five counts of conspiracy and extortion. The following day the Philadelphia district attorney's office charged Mr. Daidone and Long John Martorano with the murder of John McCullough, who was, this subcommittee is undoubtedly aware, the former head of the roofers union in Philadelphia and South Jersey.

It should be noted that within 3 weeks of the McCullough homicide in December 1980 Frank Gerace hired Albert Daidone as an employee of local 54, and 4 months later Gerace placed Daidone on the executive board of the union, and 1 year later Mr. Daidone was appointed vice president of local 54 by Mr. Gerace when that office, that position in the union became vacant.

After these charges of murder and extortion were lodged against Daidone, the division of gaming enforcement immediately moved to amend our local 54 complaint to add him as a party. Three days later, on September 13, the union advised the division of gaming enforcement and the casino control commission that Albert Daidone had been removed from office and no longer holds any position in local 54.

Thank you, Senator, for the opportunity to address the subcommittee.

Chairman Roth. Thank you, Mr. Sturges.

I think the hearings held here bear out much of what you say, that the organized mob is trying to take over gambling through the back door. We are very much concerned and appreciate the fact that you are here to testify, because I think it is important that we cooperate and collaborate in our efforts to get an end to this labor racketeering.

I would like to address some of my early questions to you, Mr. Kimmelman. I think we are all concerned about labor racketeering. I think we are all very concerned to insure that employees, workers, have the right to collective bargaining without interference. As I understand what you want, you would like to have an exception made to the general rule, that the Federal Government regulates, if you want to call it that, or provides the rights for organized unions. This is a very unusual exception you are asking for. I know of no other exception where States are given authority to regulate union activity. Is this a bipartisan--what is the point of view of both parties in New Jersey?

Mr. Kimmelman. Senator, in our house of assembly, there was adopted Assembly Joint Resolution 44, unanimously, and the assembly is comprised of 80 members, and it is roughly 50–50, although there are a few votes in favor of the Democratic side. That resolution memorialized Congress and the President:

> To adopt legislation specifically authorizing New Jersey to register and regulate labor organizations engaged in representing employees of the casino gaming industry to the degree that registration and regulation are regarded necessary by New Jersey to insure the honesty and integrity of casino gaming operations in the State.

The resolution, which I just read from, was introduced in the lower house by then Assemblyman William Gormley, G-o-r-m-l-e-y. Since the passage of this resolution, Assemblyman Gormley was elected to the New Jersey Senate, so that he is now in the process of moving this resolution before the senate. Our senate is composed of 40 members. I think the Republicans have a plurality of one. And we fully expect that this resolution will be adopted unanimously. So that there is clearly bipartisan support, Senator.

Chairman ROTH. Let me ask you this: As you well know, the AFL–CIO leadership is very determined, as everyone is, that the racketeering element not be involved in the labor movement. Have you discussed this proposal either at the local level or with, let's say, Mr. Kirkland or other national officials?

Mr. KIMMELMAN. No, I have not, Senator, and our office has not.

Chairman ROTH. Have you given any thought—I am very concerned about this question of balance between labor racketeering and the rights to collective bargaining. How you strike that balance is of critical importance. I would imagine that there would be great reservations about starting some kind of exception. Have you given any thought to possibly the Federal Government, the NLRB, being given certain authority in such cases to support State efforts?

Mr. KIMMELMAN. Senator, we have given thought. And, of course, we were confronted with the question as to whether it would be desirable to make an agency of the Federal Government part of the law enforcement setup in New Jersey. We have no objection if some Federal agency—the National Labor Relations Board, for instance—had jurisdiction over matters such as this, specifically delegated to it by Congress by appropriate legislation. But we would have to recognize, as would the Congress, that this Federal agency then is given power over unions in casino matters that would affect New Jersey. It would affect Nevada. And it might affect some other States which have the referenda currently on their ballot, as I indicated before. We would have no objection to that.

Chairman ROTH. Let me ask you this question, because you have the problem of organized crime intruding not only on the casinos but other unions as well. As a matter of fact, we had a witness in June who made very pessimistic statements about a union's ability to purge itself of organized criminal elements. The New Jersey State Police and the federally protected witness, Charles Allen, stated that once organized crime takes over a union, it never withdraws. It is able to maintain its influence indefinitely.

In other words, as I understood what they were saying, you may get rid of two or three members of the mob, but they are merely replaced with others.

Mr. KIMMELMAN. Right.

Chairman ROTH. How do we really clean up the movement? I asked Allen what can be done by law enforcement officials or Congress to change this, and he said, I quote him, "probably not a damn thing, Senator." So my concern is this, that we have a problem, admittedly serious problem, in the organized mob trying to infiltrate casinos, but they are also trying to do the same thing in other areas. So isn't the problem somewhat broader perhaps than merely casinos?

Mr. KIMMELMAN. The problem is broader, Senator. I am mindful of what the witness responded to your question. But we in the law enforcement community can never cease our vigilance over these phases of criminal activity because the minute we let up, this hydra-headed monster sprouts new heads, not only people to take places of those who have been removed but with a geometric effect. That is why we must remain vigil.

Now, I am aware that Lieutenant Colonel Dintino of our State Police testified before this subcommittee earlier this year. He did have a very pessimistic view as to the role of organized crime and mob influence in labor unions. And I don't blame Colonel Dintino one bit. That is his role, properly so.

I am not as pessimistic as the Colonel. I prefer to be optimistic, that with our increased vigilance, perhaps we will bear fruit. And if we at the State level or even at the Federal level are able to withhold these vast sums of money from going into union treasuries and pension and welfare funds, or at least to regulate the control of those funds, we will have accomplished a good deal toward eliminating the mob influence, because when all is said and done, Senator, the mob and organized crime go where the money is. The money is in the casino industry. The money is in the collection of dues. The money is in the administration of the welfare plans.

Chairman ROTH. I think you make a very valid point, that what they are after is the money. And if you turn that off, maybe that would be one way of helping to purge it. As I said, it may be that the approach, however, if that is a valid way to go—and that is something we will certainly want to carefully consider—that it should be done at the Federal level or perhaps even the Federal court. I am not sure.

I am concerned that merely eliminating a few mobsters does not clean up the act, that we just see rotating chairs, some other people replacing them. So we have to get it—maybe your approach is the right one, that if you turn off the money for a while, they will lose interest.

Mr. KIMMELMAN. I would hope so.

Chairman ROTH. Let me just ask Mr. Sturges a couple of questions because we were very concerned, too, about the Joseph Salerno incident. As you say, I suppose it is hard to identify why this was done. As I understand it, this is one of the first times that a member of a family of a witness has been shot.

Mr. STURGES. Yes, sir.

Chairman ROTH. Do you think this is just a one-time thing, or do you think this is a determined effort of the organized crime to silence people? If so, what should we do to improve our Federal witness protection program?

Mr. STURGES. I think, as this subcommittee is certainly aware, this would not be a traditional mode of retaliation in organized crime circles. Traditionally the families have not suffered this type of retaliation when a member of the family might have wronged the organization.

But the Angelo Bruno crime family right now is in a very unstable situation, and Nicky Scarfo is in control, and Nicky is an extremely unstable and unpredictable mob leader.

I think as far as the Federal witness protection program is concerned, it has been extremely helpful to us in the State of New Jersey in the past with witnesses where the marshals have cooperated in relocating witnesses that we are using in State prosecutions. I don't have any particular recommendations. I don't know, those who participated in the program may very well have some recommendations they would like to make as to how the program could be improved. We have always found it to be extremely effective and very helpful.

Mr. KIMMELMAN. Senator, may I just respond?

Chairman ROTH. Please do.

Mr. KIMMELMAN. Because there is another instance of this kind of retaliation, not related to the incident that Mr. Sturges talks about with Mr. Salerno, but just within the last several weeks, the special prosecutor, Leon Silverman, investigating the Secretary Donovan matter released a report in which he referred to the testimony of a certain individual, and that individual was murdered within some days or weeks right thereafter.

Now, this was obviously some form of retaliation. I don't suggest that it is related to the Salerno incident. But this is what the mob and organized crime do. And I think we may have to reexamine certain of our criminal law principles to provide more protection and more anonymity to these people who are willing to come forward and testify, and to allow criminal trials to progress under some form of anonymity of witnesses.

Now, you may have constitutional provisions to overcome because the Constitution provides that a person accused of a crime is entitled to be confronted by his witnesses. But when we see this taking place on an ever-increasing scale, perhaps some more serious thinking has to be done in that area.

Chairman ROTH. I have one further question. Then I will turn it over to my esteemed colleague, Senator Nunn. We act in a very bipartisan manner in this particular subcommittee.

But I would like to ask, do you think that Scarfo will be able to maintain control of the family from prison?

Mr. STURGES. Mr. Scarfo's sentence, unfortunately, is not that long, and he has very close associates remaining behind, including his nephew, Phil Leonetti, Lawrence Merlino, Chucky Merlino. These are people who are very close to Scarfo. And I am not that optimistic about whether removing Scarfo physically from the New Jersey boundaries is really going to have that much effect in the long run.

Chairman ROTH. Senator Nunn?

Senator NUNN. Thank you very much, Mr. Chairman.

I want to thank both Mr. Kimmelman, the New Jersey attorney general, and Mr. Sturges, Director of Enforcement, for being here and commend them in their efforts in the area of law enforcement.

[At this point Chairman Roth left the hearing room.]

Senator NUNN [presiding]. The New Jersey State Police is one of the most cooperative agencies we have encountered in the past 5 years while attempting to determine the scope of the problem in the area of organized crime and narcotics, and provide a solution to these problems. There are several bills pending in the Senate resulting from previous testimony by Bob Delaney, Justin Dintino, and others. I commend you in your efforts in New Jersey; I believe you are on the right track.

There are several questions I wish to ask. Interestingly enough, this morning while we are discussing the intimidation of witnesses we are now taking up the Thurmond-Biden bill on the floor of the Senate. One of the major parts of that bill, as far as I am concerned, is legislation introduced by myself, Senator Roth and others, to provide increased protection for the families of law enforcement officials and for potential witnesses. We have encountered numerous situations where organized crime has retaliated against people who were cooperating with law enforcement but who had never officially become witnesses. These individuals are not within the parameters of the protection of Federal law.

The Thurmond-Biden bill would not cover the particular case that you are talking about this morning, the family of a witness. We have families of law enforcement officials covered in this bill, and perhaps we ought to take a look at families of witnesses. But we are making some progress.

I hope we pass this bill today, which contains six or seven other provisions. We do really try to deal with the subject of violence in organized crime in this bill.

Another bill you might be interested in that again has passed the Senate and is now pending in the House, hopefully the Labor Committee will be able to deal with that this week, but I am not very optimistic at the moment, would require the immediate removal of a labor union official from his position of trust in a labor union upon conviction, rather than awaiting appeal, which is now the case.

While the subcommittee was investigating the waterfront industry in New York, Miami, and elsewhere, it became apparent that certain union officials had been convicted of various crimes and were still holding their positions of power, in effect, having power over the very people who testified against them. These individuals would remain free on appeal for 5 or 6 years and still hold union positions. We have gotten that bill passed the Senate.

Interestingly enough, Lane Kirkland's AFL-CIO has testified on behalf of that bill, has endorsed it, and is working on it in the House. I hope we can get it passed.

Now, turning to your particular case, Mr. Kimmelman, as I understand it, you have a State law which allows for the removal from unions of people who are associated with organized crime if that union is involved in gaming; is that right?

Mr. KIMMELMAN. Yes, sir.

Senator NUNN. Is that essentially correct?

Mr. KIMMELMAN. Yes; specifically limited to the casino industry. Of course, the association with organized crime, it is more specific than just the association.

Senator Nunn. What must you prove in order to lay the groundwork for the removal of an individual under your State law?

Mr. Kimmelman. Well, we have criteria in section 86 of our casino control law which refers to convictions of certain crimes, and a whole litany of crimes are listed.

Senator Nunn. That would be entirely consistent with what we are doing in the bill that I just discussed.

Mr. Kimmelman. I think we go a little further, Senator. We also provide that a person can be removed if he is identified as a career offender or a member of a career offender cartel; that is, a group which habitually commits crime.

Senator Nunn. What level of proof is required? Must you have a conviction of that individual or is that established by association with a group and then prove that particular group's pattern?

Mr. Kimmelman. Right. I do not have to prove the conviction, but I have to introduce proof about the group and the pattern, something similar to the Federal RICO Act.

Senator Nunn. Does that hearing with due process take place before the commission itself? Do you go in and charge that person with belonging to a group and the group as being affiliated with organized crime, and then establish proof?

Mr. Kimmelman. Right.

Senator Nunn. Does that person have a right to respond?

Mr. Kimmelman. Yes. And the burden of proof in the instance of the regulation of unions is on the Government. That is my office. But with respect to all other casino licensing and regulation, the burden of proof is on the applicant to show that he is worthy to come within the provisions of the casino act and he is worthy of licensure. But as I indicated in my testimony, Senator, we recognize the delicate balance between the Federal-State relationship in the regulation of labor unions, so that there the burden of proof is on the State and a complete due process hearings is enabled to the union and its officials.

Senator Nunn. Do you distinguish gaming or gambling operations in terms of your ability to regulate from everything else? Is that the only area where you have a provision allowing the removal of union officials under New Jersey law?

Mr. Kimmelman. Yes, sir, Senator.

Senator Nunn. What would be your view, let's say, if the State of Georgia were to pass a law which states that grocery stores are being infiltrated by organized crime and that people who are involved in the related unions may be influenced by organized crime, and therefore they would have the right to remove a union official under the same conditions you lay down in New Jersey?

Mr. Kimmelman. No. 1, obviously I don't want to speak for Georgia law. They have a very good attorney.

Senator Nunn. This is hypothetical.

Mr. Kimmelman. I know it is hypothetical, Senator.

Senator Nunn. I am trying to establish where we draw the line.

Mr. Kimmelman. Right. I think the ordinary criminal statutes on the books of Georgia as well as any other State can take care of those situations. Now, we distinguish solely casino gaming from all these other businesses. Why? Because casino gaming is unique. It deals with huge amounts of cash and huge amounts of unreported transactions. There is no way you could trace them. Human nature being what it is, people are attracted to the gaming industry. In our State, as distinguished from other States which have casino gaming, New Jersey is located geographically in an area which draws upon millions and millions of people within 1 day's ride of Atlantic City. We have to protect them, more so than we have to protect people who patronize a local businesss establishment. That is the difference.

Senator NUNN. What about the waterfront? There have been all sorts of problems with union activity on the waterfront. We have volumes and volumes of hearings we conducted on that subject. Suppose New York State passed a law that said that the State can remove union officials from waterfront positions if they are associated with organized crime, as you have in New Jersey. In other words, just substituting waterfront for gaming. What would be your view of that?

Mr. KIMMELMAN. Senator, in that instance, speaking as a law enforcement official, I would be in favor of legislation of that nature, not because it conflicts with Federal law but because it complements Federal law and it seeks to accomplish the same purpose that Federal legislation does, and that is to have organized labor unions clean up their act where it is necessary.

[At this point Chairman Roth entered the hearing room.]

Mr. KIMMELMAN. And it is not necessary in the instance of many unions. It is just a few that we are talking about.

Senator NUNN. I agree with that. I think it is the exception, certainly not the rule. But where it is the exception, it is a very, very bad exception and affects a lot of people.

Mr. KIMMELMAN. Right.

Senator NUNN. What is your view legally about whether the court should rule that Federal law does now preempt? Do you think that Federal law now preempts? Do you think we need to correct that, or do you believe you will prevail in court on that point?

Mr. KIMMELMAN. Senator, I believe that Federal law, when properly viewed, does not preempt the New Jersey Casino Control Act. But we are now engaged in litigation in the U.S. district court, and you well know, as do I, that from there litigation will go by way of appeal to the circuit court and eventually reach the United States Supreme Court. We may be 3, 4, and 5 years down the road from a final decision.

What happens to the regulation of our gaming industry in the meantime? This is of serious concern to us. And that is why we are trying to establish the legal precedent now by legislation rather than waiting the several-year route for a final judicial decision.

Senator NUNN. Have you thought about a possible alternative course if you do run into roadblocks here with legislation? I don't know what the opposition will be at the present time, but I am sure it is going to depend upon where you draw the line, how far do we go in letting States regulate this area. It may be very difficult.

I have worked now for about 3 years on the legislation that has recently passed the Senate and is now stuck in the House subcommittee. So the legislative route sometimes is as slow as the——

Mr. KIMMELMAN.—judicial route?

Senator NUNN [continuing]. Judicial route. And the legislation that I have introduced has the full support of the AFL–CIO. So if you get a bill up here that maybe doesn't, I think it would be a rather slow route.

Now, if it is a slow route and if you don't get a favorable decision from the court, have you thought about instead of removing an official from a union, barring that individual from participating in any endeavor or any organization or any participation in any form with gaming itself? That is what is done on the waterfront, as I understand it, by the New York Waterfront Commission. I will have to get staff to check this out. But as I recall, they don't bar an official from being a member of a union or officer of a union, but they do bar that particular individual from having any affiliation with the waterfront.

Could the State of New Jersey consider that approach so that you would not be removing an official from a union but you would be precluding that official from in any way participating in that general category of business?

Mr. KIMMELMAN. Senator, that is a good suggestion. It is not presently contained in the existing New Jersey law. All our law provides for is for sanctions against a union and not for removal of any of its officers. But that is one area which we could very well explore.

We could also explore the area of seeking enforcement of the regular criminal statutes against any of these officials who have committed wrongdoing of any nature. But there again we engage in the criminal process, and it may take time to obtain a conviction against a person for other crimes perhaps unrelated to the casino industry.

Senator NUNN. So your law doesn't provide for the union official's removal. It provides for sanctions.

Mr. KIMMELMAN. Sanctions against the union itself, Senator.

Senator NUNN. As long as that individual is involved in the union?

Mr. KIMMELMAN. That is correct. If the union——

Senator NUNN. It is a strong incentive to remove that official.

Mr. KIMMELMAN. Oh, it is. The union may want to purge itself, but we don't control the union, nor do we seek to control the union.

Senator NUNN. As we are all thinking through this, and I assure you that under Senator Roth's leadership this subcommittee will examine this very carefully, but I do see the pitfall of possible serious opposition to giving a State the right to remove or force the union to remove a union official. But I would encourage you to take a look at this possibility of barring that individual from any affiliation with any organization that does involve themselves in gaming. That may be another way to achieve your objective without crossing the threshold on a State government removing a union official or providing sanctions. I have to think it through, but we certainly will try to cooperate with you.

Thank you, Mr. Chairman.

Chairman ROTH [presiding]. Thank you, Senator Nunn.

I want to thank both of you for being here. I share some of the same concerns expressed by Senator Nunn. I think getting any kind of exceptions along the lines you are proposing is something to consider. I will urge the staff of both the majority and minority to work with you to see what possible solutions there may be to the problem. Thank you, gentlemen, very much.

Senator NUNN. Thank you both.

Chairman ROTH. In the interest of moving forward, I am going to put in the record, if there is no objection, the staff statement on locals 19 and 28;[1] sworn affidavits of Jack Waller;[2] Catherine Mullens;[3] Herschell Morgan;[4] John James;[5] and a prepared statement of Gary I. Gilbert.[6]

Chairman ROTH. At this time I will call forward Mr. Robert Shilling, former member, local 19, please.

Please rise, Mr. Shilling. Raise your right hand.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SHILLING. I do.

Chairman ROTH. Please be seated, and proceed with your statement, Mr. Shilling.

TESTIMONY OF ROBERT SHILLING, FORMER MEMBER, LOCAL 19

Mr. SHILLING. Mr. Chairman, subcommittee members.

[At this point Senator Nunn left the hearing room.]

Mr. SHILLING. My name is Robert Shilling. I am currently employed——

Chairman ROTH. Would you move that a little closer so we can hear you better?

Mr. SHILLING. My name is Robert Shilling. I am currently employed as a police officer in the city of Seattle, Wash. I was employed by local 19 of the Hotel, Motel, Restaurant Employees and Bartenders Union from January 1976 until October 1977. My initial position was that of organizer. I was hired by Frank Marolda, president of local 19. I was assigned to work directly under Ed Finnegan, who was imported by Frank, as director of organization. After a short period of time, I was made business agent, still working directly under the supervision of Frank Marolda.

Due primarily to numerous successes, both as organizer and as business agent, I soon became a favorite of Frank Marolda. Older employees used to refer to me as Frank's fair-haired boy. This reference was reinforced by Frank in that I became privy to private meetings and was asked by Frank to join him at various political functions. Frank informed me of his intention to groom me to take over the position as secretary-treasurer of the local. I soon found myself appointed a delegate to the Central Labor Council, and I received a lot of exposure in the local union newspaper.

Frank was not happy with the lack of success Ed Finnegan was having as director of organization while he was there. Frank relieved Finnegan, sent him back to Chicago, and appointed me as director of organization. Frank hired another friend from Chicago, James Modesto, to position of business agent. Frank's brother Ralph also came from Chicago and was hired by Frank. Ralph was paid by local union funds, and his title was administrative assistant to the president. Ralph's actual position was that of bodyguard for Frank. Ralph always carried a gun and went along with Frank to everything of significance. Ralph did no organizing or business agent work. Because I was trusted by Frank, I was also trusted by Ralph and was privy to numerous conversations.

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[1] See p. 115 for the prepared statement of locals 19 and 28.
[2] See p. 125 for the sworn affidavit of Jack Waller.
[3] See p. 128 for the sworn affidavit of Catherine Mullens.
[4] See p. 131 for the sworn affidavit of Herschell Morgan.
[5] See p. 135 for the sworn affidavit of John James.
[6] See p. 137 for the prepared statement of Gary I. Gilbert.

To assist me in organizing, Frank hired Esther Adcock and Donald Gerber. Both Esther and Donald were to be hired through the CETA program. Since CETA did not allow persons to be hired for organizing purposes, the union told CETA that Esther and Donald were to be hired as clerk typists and minority recruitment. In fact, there was no such thing as a minority recruitment program at local 19. Donald Gerber is white and had no experience relating to a minority recruitment position. Esther Adcock is Mexican and speaks fluent Spanish, yet was not going to be hired for minority recruiting. Mike Mullins was also susbequently hired as a supposed minority recruitment officer. Mike Mullins was in fact the local's janitor. Mike Mullins is also white and had no experience relating to minority recruiting. Esther and Donald did organizing under my supervision. Donald later became a business agent and had all of the dues receipts he gave out signed by other business agents, so as to leave no evidence of him not doing minority recruiting. Mike Mullins worked directly under the supervision of Frank Marolda.

When Esther and Donald were hired, each at separate times, I was with them and Frank——

Chairman ROTH. Excuse me. Let me interrupt. I have to take a telephone call, so we will have to recess for 5 minutes.

Mr. SHILLING. OK.

[Brief recess.]

[Member present at time of recess: Chairman Roth.]

[Member present at time of reconvening: Chairman Roth.]

Chairman ROTH. The subcommittee will please be in order.

I apologize for the interruption. Please proceed.

Mr. SHILLING. When Esther and Donald were hired, each at separate times, I was with them when Frank explained to them that it was against Government regulations for them to be organizers. He explained to them they would be called minority recruitment officers. Donald and Esther were sent to CETA to fill out the appropriate applications. Mike Mullins was also subsequently sent to CETA to fill out the forms.

All three were OK'd by the CETA program. We then ended up with two organizers and a janitor being paid for by the Government. Just shortly after approval, Esther was added to the staff as a fulltime organizer. I am not sure whether Esther ever did receive CETA funds. Mike Mullins not only did the janitorial work at the local but also did repairs and handywork at Frank's house. This was part of Mike's responsibilities since the janitorial work at the union building took less than 2 hours a day.

Frank called a meeting 1 day in which Esther, Donald, Mike Mullins, and I were present. Frank said he had received a call from CETA and that they would be out the following day to look at the recruitment program. Frank wanted all present to start putting some kind of material together, enough to pass the CETA inspection. I was told to coordinate the effort. Calls were made to several minority job services, including Project SER in San Jose. Material was picked up, retyped and made ready for CETA's inspection. It was apparently good enough as we passed CETA's inspection. The following day the material was discarded.

Frank's nephew, David Chocola, came from Chicago to spend some time with Frank. Frank put David on the payroll, paying him as much as some of the long-time office employees. David did relatively little work, occasionally working a couple hours a day. David's hiring was never approved by the membership.

Frank had an American Express card and a Standard Oil of California card which were issued in his name and the local's name. Frank used these freely, not only for business but for personal use. Frank would purchase gasoline for his wife's car, on occasion, with the local's gas card. Frank also used the local's American Express card to entertain family and friends. Frank constantly used the local telephone to make his personal long-distance phone calls. Ralph was also allowed access to the local phone for some of his long-distance phone calls.

Many of the long-distance calls Ralph made were in the Chicago area to a man name Joe Testa. Ralph confided in me on numerous occasions that Joey Testa is a muscle man. Frank's Chicago friend, Jim Modesto, also referred to Joe Testa as a muscle man who was known for his strong-arm tactics.

Frank was very active politically, as was Ralph. Through State Senator Al Alquist, a strong labor supporter, Frank was introduced to a woman named Flora Souza. Frank and Ralph met with Flora Souza on several occasions after the initial introductions by Senator Alquist. I was not at the subsequent meetings. However, I was present during several phone conversations with Flora Souza.

I was informed by Frank and Ralph that they had a unique opportunity to organize health care workers. I was told that Flora Souza ran a business that employed hundreds of homemakers throughout the State of California. I was told that the union was going to be allowed access to the employees, at various employee meetings, at the direction of Flora Souza. All that had to be done was to get authorization cards signed by the majority of the employees and Flora would immediately recognize the union and negotiate a contract.

Frank and Ralph made several phone calls to Edward T. Hanley, president of the International Union.

A meeting was held between Ralph, Frank, and Flora Souza in Palm Springs, Calif. I was told that an international employee named Pinky was also at the meeting. I believe Pinky's last name was Schiffman.

After returning from Palm Springs, I found out that a new local had been created, entitled local 34. Ralph was made an international organizer and was president of the new local. Authorization/payroll deduction cards were printed for local 34. On Frank's orders, I accompanied Ralph to organizing meetings in Turlock, Stockton, Modesto, and Visalia, Calif. Ralph was given the times, dates, and locations of the employee meetings by Flora Souza. Flora had already told her managers that we were to be given access to the employees.

As soon as the managers were done, they introduced Ralph. Ralph gave his presentation, promising the Moon. The employees were currently making little more than minimum wage. I do remember at certain times that he promised them in excess of $7 an hour.

Almost all of the employees signed the authorization cards. Little did they know that they were also authorizing payroll deduction. They were all told they would have a voice in the contract, but this was hardly the case. As soon as the cards were signed, Flora was notified. Flora recognized the union and signed a prearranged contract. The contract gave the employees little more than they were currently getting; yet the union was getting dues from them by payroll deduction because they signed the authorization cards. The employees were furious, but to no avail.

Due to numerous abuses of privileges by both Frank and Ralph, I formed a group called Local 19 Members for a Democratic Union. One of the efforts we undertook was to write a letter to International President Hanley. This letter outlined many of the abuses of power, including the hiring of friends without executive board approval, misuse of gasoline and American Express credit cards, and misappropriation of union funds.

Hanley did not respond to our first letter. We wrote Hanley another letter, telling him that we were asking him to cause an investigation to be made, using his executive powers as outlined by the international constitution. Hanley responded by saying that it did not appear Frank was involved in any conduct which warranted intervention from his office.

Local 19 Members for a Democratic Union went forward, sending letters to the membership informing them of what was going on. We became active at membership meetings asking many questions which pertained to use and abuse of funds. Frank's response was to cancel membership meetings. We were then brought up on local union charges, which varied from disruption of union meetings—which meant asking pertinent questions—to talking to newspaper reports to being called subversives.

Frank appointed an election committee, chaired by Danny Fragnito, which systematically eliminated all competition to Frank's slate. We appealed to International President Hanley, whose response was to certify the findings of the election committee. During the above period of time, we were all subsequently terminated.

All of the memos and receipts which we obtained were turned over to Gerald Hinckley of the Justice Department in San Francisco. We subsequently testified before a Federal grand jury and a trial held in Federal court. Frank was convicted of embezzlement and mail fraud, although I have since learned that his conviction was overturned on appeal.

Chairman ROTH. Thank you, Mr. Shilling.

On what basis do you say that Frank Marolda controlled the local 19 executive board?

Mr. SHILLING. He controlled the local 19 executive board mostly by intimidation. The executive board, the average age I would say was probably 65 years old. What he did is he would embarrass the former officers, Herschell Morgan and Joe Santamaria, and would also intimidate them away from the executive board meetings while at the same time doing numerous favors for the other executive board members.

Chairman ROTH. What kind of intimidation did he use?

Mr. SHILLING. Well, for example, he often made reference to taking Joe and Herschell out and introducing them to a baseball bat. He also gave Joe and Herschell a district which was in the Gilroy area, which was far removed from downtown San Jose and from the area which the local union serviced. It was basically called the district down in the boonies. That is what he gave them, in order to get them to quit.

Chairman ROTH. Isn't it true that in the 1978 local 19 election every candidate opposing Marolda was disqualified by his handpicked election committee?

Mr. SHILLING. Yes, Senator, that is true; all except for one person.

Chairman ROTH. What exactly does that mean when they are disqualified? That they could not actually run?

Mr. SHILLING. They could not run for any elected office within the union.

Chairman ROTH. So the procedures established by the National Labor Relations Act really were not followed in giving the employees a choice.

Mr. SHILLING. That is true.

Chairman ROTH. Mr. Weiland.

Mr. WEILAND. Mr. Shilling, let me just ask about Mr. Marolda and his expenditure of local funds. You mentioned the oil credit cards. Did he discuss with you his power to make expenditures out of the local's treasury?

Mr. SHILLING. There were several times when we would go out to dinner totally, you know, for personal reasons. It would be myself, maybe some of the other employees of the union. And we would all go to our pockets to pay for our part of the bill, and he would just pull out his American Express card and make the comment, you know, "Let the local pick it up."

Mr. WEILAND. That is all I have, Mr. Chairman.

I just want to state for the record that we have corresponded with Mr. Marolda's counsel and asked him if he would care to appear. He has declined our offer, understandably because of his pending Federal indictment. We have also solicited interviews with or testimony from other officers or employees of the local—that is current officers or employees—and have been unsuccessful in our efforts.

Chairman ROTH. Thank you, Mr. Shilling.

Mr. SHILLING. Thank you, Senator.

Chairman ROTH. I appreciate your being here today.

Our next witness will be Mr. William Jones of the Labor Management Services Administration, Department of Labor.

Mr. Jones, we are pleased to have you here today. Would you please raise your right hand. Do you swear that the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JONES. Yes, sir, I do.

Chairman ROTH. Please be seated.

I want to thank you for being here today. We appreciate your presence. You may proceed with your prepared statement.

TESTIMONY OF WILLIAM JONES, ASSISTANT REGIONAL ADMINISTRATOR, LABOR MANAGEMENT SERVICES ADMINISTRATION, DEPARTMENT OF LABOR

Mr. JONES. Thank you, sir.

[At this point Senator Nunn entered the hearing room.]

Mr. JONES. Mr. Chairman and members of the subcommittee, my name is William J. Jones. My title is Assistant Regional Administrator, Atlanta Regional Office, Labor-Management Services Administration, U.S. Department of Labor, Atlanta, Ga. I have been employed by LMSA for 13 years, served as an investigator in the San Francisco area office, San Francisco, Calif., from March 1969, to about November 1976, and supervisory investigator from November 1976, to about April 1981, when I was transferred to my present position.

During my years as an investigator, I was detailed to the U.S. Department of Justice, Organized Crime and Racketeering Section, San Francisco, Calif., office, from 1971 to 1976. As an investigator and supervisor, I had occasion to be involved in election of union officers, investigations in Hotel and Restaurant Employees Local Union 19, San Jose, Calif., and local union 28, Oakland, Calif.; a rerun election of officers in local 28 under the supervision of the Secretary of Labor; an officer removal investigation in local 19; criminal investigation and prosecution of Frank Marolda, president of local 19; and I assisted the FBI in the criminal investigation of Ray Lane, former secretary/treasurer of local 28. While I was not involved, I am aware of an officer removal investigation in local 28 and a recent criminal action against Ray Lane for obstruction of justice. I have no direct knowledge of these last two cases. However, matters than I can testify to are summarized by investigation as follows.

At the special constitutional convention of the Hotel Employees and Restaurant Employees International Union held in San Francisco, Calif., in December 1974, the convention approved a resolution empowering the general president to establish an international pension fund and international welfare fund. The general president was empowered to take all necessary action to accomplish the establishment of the two funds. It also authorized the merger of any pension or welfare fund of a subordinate body into the international fund.

The international funds were established, but the west coast locals resisted merger of their funds with the international funds. In accordance with the power granted in the December 1974 resolution, the general president, Edward T. Hanley, merged several locals in California. Ted T. Hansen, Hanley's brother-in-law, was appointed an international organizer in Los Angeles and was placed in charge of the merged Stockton, Calif., locals. Frank Marolda, former international organizer in Chicago, was subsequently appointed president of local 19 in San Jose, Calif. Ray Lane was appointed secretary-treasurer of local 28 in Oakland, Calif.

Local 19 was formed in 1975 from the merger of locals in the San Jose area. On September 5, 1978, the local held its first election of officers after the merger. Opposition slates were formed to oppose incumbent officers, including Frank Marolda, president, by appointment since the merger.

A rift developed among the officers and employees of the local. A number of employees were fired, a picket line was placed in front of the local, and internal union charges were filed against 18 members, all of whom were candidates for officers or relatives of candidates, to have them expelled from the union. A civil suit was filed on behalf of the 18 members and the court issued an order enjoining the union from taking any actions against them until after the election was held.

Following nominations, all opposition candidates were declared ineligible, leaving Marolda and the other major offices unopposed. Three separate complaints were filed with LMSA, each on behalf of several members, alleging numerous violations in the election. A civil suit was filed by the secretary seeking the election to be set aside on the basis of the local's failure to uniformly apply candidacy eligibility rules to all candidates, and the suit was later amended to include using the local union newspaper to campaign. The court dismissed the suit on September 29, 1980, and we did not appeal the decision.

In 1977 the San Francisco strike force initiated an investigation assigned to the FBI on allegations that Frank Marolda had been making unauthorized use of union funds for personal gain. The strike force requested an LMSA auditor to review the union records and subsequently requested an LMSA investigator to complete the case for presentation to the grand jury.

Marolda was indicted on June 1, 1978 on 34 counts of mail fraud and embezzlement in the amount of $2,500. On December 11, 1978, the judge reversed the jury verdict on mail fraud counts and acquitted him on all mail fraud charges. On the embezzlement charge, he was fined $5,000. given a 2-year suspended sentence, and ordered to make restitution of the $2,500 to the union.

Marolda appealed his conviction, and in March 1979, the Ninth Circuit Court of Appeals reversed the lower court based on an error in instructing the jury. Petition for rehearing was denied by the Ninth Circuit in June 1980, and on September 11, 1980, Marolda was reindicted on charges of embezzlement in the amount of $6,806; unlawfully obtaining $4,000 in CETA funds; attempting to obstruct justice by urging a grant jury witness to give false testimony about the CETA funds; and conspiracy to steal local union funds by getting the local union executive board to approve a full pay for life pension upon his retirement from local 19. He appealed the latest indictment on the basis of double jeopardy. The Ninth Circuit Court dismissed the embezzlement count on June 15, 1981. I understand that Marolda has taken a new appeal on the remaining counts, alleging vindictive prosecution. This appeal is still pending.

As a result of Marolda's conviction for embezzling union funds, Catherine Mullens filed internal union charges against Marolda for misappropriating union funds. The union failed to act upon the charges, and Mullens filed a complaint with LMSA under the provisions of title IV, section 401(a) of the Labor-Management Reporting and Disclosure Act of 1959, as amended.

Based upon investigative findings by LMSA, a civil suit was filed in U.S. district court. On November 11, 1981, we were advised that the court had ordered the union to proceed with the removal process under the supervision of the Secretary of Labor. The order was filed on

November 24, 1981. The local appealed to the Ninth Circuit and the lower court decision was stayed pending outcome of the appeal.

Following merger of the Oakland area locals, Ray Lane was appointed secretary-treasurer of local 28 by the international. The first election of officers in local 28 occurred on November 30, 1977. Several members of the local collectively filed a complaint with LMSA alleging irregularities in the election. Among issues raised was the allegation that Lane had the election held ahead of schedule because he expected to be indicted by the Federal grand jury. Investigation disclosed the local union executive board minutes approved holding the election early for reasons not related to any potential indictment of Lane, and the international executive board approved a change in the local union bylaws for the election to be held in November 1977 instead of May 1978. The investigation did disclose violations of title IV, section 401 of LMRDA and a civil suit was filed on November 16, 1979, to have the election set aside.

As a result of an FBI investigation, Lane was indicted for embezzlement, labor racketeering, and obstruction of justice. He pled guilty to one count of embezzling $832 from the welfare fund in January 1979 with sentencing delayed until August 1979. He was fined $5,000 and sentenced to 2 years in prison with 18 months suspended if he removed himself and his family from union positions. With Lane's removal from office, problems continued among the officers and members, and the international placed the local under trusteeship in April 1980.

On June 9, 1980, in response to the Government's suit, the court set aside the November 1977 election and ordered a rerun election under supervision of the secretary to be concluded by September 9, 1980. The court was requested to extend the date of the rerun election until November 1980 and an amended judgment was so entered on July 25, 1980. The extension was requested by LMSA for two reasons: We needed more time than originally allowed by the court, and the international union had amended the local union bylaws for elections to be held in November to coincide with the 3-year term of office set by the first election. The rerun election was concluded in November 1980 lifting the trusteeship on the local.

In preparation for my testimony here, I learned that Ray Lane is currently facing Federal charges stemming from an attempt to regain control of local 28. This is, however, not a matter within my official responsibilities, and I therefore cannot testify as to the details. Local 28 is now in trusteeship.

That concludes my statement. I will be glad to answer any questions that you might have.

[The criminal record of Raymond Lane follows:]

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
State Bureau Sacramento CA	Raymond Lane A 15859	9-13-50	rob 1st(211-PC)	5-life par 9-13-53 9-13-56 disch
PD San Fran CA	Raymond F Lane 95241	6-27-67	rehabilitation & pardon	
USM Atlanta GA	Raymond Frederick Lane 31135 019	9-15-78	racketerring witness intimidation	transferred to San Fran 5-9-80 sent modification denied. Sent to 2yrs custody Atty Gen. all susp except 6mos. Prob for remaining 18 mos and $5,000 F
Fed Prison Camp Lompoc CA	Raymond F Lane 72225-011	5-19-80	Embezzlement 18-664	2yr/6mos serve 3651 split

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
	... Fed par mandatory rel or prob extends to 4-2-82 inf rec USPO San Francisco CA 94102;			

Description and Related Data:

Race: White

Sex: Male

Height: 70"

Weight: 171½

Hair: Brown

Eyes: Hazel

Date and Place of Birth: 9-6-23 - New York City NY

Scars and Marks: Unknown

Address: (in 1980) Alameda CA

Occupation: (in 1980) Union Officer Local 28

Social Security Number: 157 22 7456

Chairman ROTH. Thank you, Mr. Jones.

Could the removal suit which the Government has won and Frank Marolda has appealed lead to his removal as president of local 19, despite the earlier reversal of his criminal conviction?

Mr. JONES. Yes, sir, it could. It would depend upon what happens at the trial. The trial would be conducted in the local union among the local union officers and members. And yes, they could vote for his removal.

Chairman ROTH. With regard to local 28, what sort of campaign irregularities formed the basis for the court's overturning of the 1977 election?

Mr. JONES. Sir, we filed that suit in local 28 on the basis of the union's newspaper being used for campaign purposes. A part of the law says that you cannot use union funds to promote candidates. There were certain articles appearing in the local union's newspaper that we deemed to be campaigning on behalf of incumbents, and that was the basis for our filing the suit. The court agreed with us and the judge issued a summary judgment in favor of the secretary in that instance.

Chairman ROTH. Wasn't there a series of lawsuits by female members of local 28 against Ray Lane alleging that he tried to persuade or force them into prostitution?

Mr. JONES. Yes, sir, there were such lawsuits. However, the Department of Labor had nothing to do with that. I am aware of it because at the time it occurred, I was working with the FBI, for the Department of Justice, so I became knowledgeable of what was going on.

Chairman ROTH. Do you know whether or not he was successfully sued?

Mr. JONES. Yes, sir. The two ladies that sued him did win judgment, I believe in the amount around $275,000.

Chairman ROTH. You testified that internal union charges were filed against Marolda's political opponent just before the 1978 election. How were these charges brought?

Mr. JONES. As I recall, sir, the charges were actually filed by the secretary/treasurer of the local, Ron Davis. The information that I received during the investigation was that Frank Marolda was behind the filing of the charges. But charges were filed against those members under the constitution and bylaws of the union alleging they had violated certain aspects of the constitution and asked for their removal from the union.

Chairman ROTH. If you could suggest a single change in our laws today to make your work more effective, what would you recommend?

Mr. JONES. Senator, I am really not in a position to make a recommendation. Within the agency, we have naturally discussed from time to time certain changes that we felt could be made. But there are some ramifications to making changes, so any suggestions on that end would have to come from the Department.

Chairman ROTH. Senator Nunn.

Senator NUNN. I don't have any questions, however, I understand you are in Atlanta, Ga., now.

Mr. JONES. Yes, sir.

Senator NUNN. We welcome you there.

Mr. JONES. Thank you, sir. I am enjoying it.

Senator NUNN. How long have you lived in Atlanta?

Mr. JONES. I moved there last April, April 1981.

Senator NUNN. Good. Well, we appreciate your testifying and appreciate your help with this subcommittee.

Mr. JONES. Thank you, sir.

Senator NUNN. Thank you.

Chairman ROTH. Mr. Jones, I want to echo what Senator Nunn just said. We appreciate very much your being here today and your helpful testimony.

Mr. JONES. Thank you, sir.

Chairman ROTH. At this time we would like to call forward Gerald McHugh, former trustee, local 86, and his attorney.

Please both rise. Raise your right hands. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. McHUGH. I do.

TESTIMONY OF GERALD McHUGH, FORMER TRUSTEE, LOCAL 86, ACCOMPANIED BY WILLIAM GARDNER, ESQ.

Chairman ROTH. Please be seated.

Mr. McHugh is here pursuant to a subpena to answer questions regarding his background and assignments with the union as well as the administration of local 86 during his tenure as international trustee from 1977 to 1981.

Mr. McHugh, how long have you been associated with the Hotel Workers Union, and what positions have you held with the union?

Mr. McHUGH. Senator Roth, before I respond to any questions, other than one relating to my identity, I would like to advise the subcommittee that I received my subpena only last Friday, September 24. I retained counsel, Mr. Gardner, as soon as possible, but Mr. Gardner was out of town earlier this week, and I have had only a limited opportunity to consult with him. I am not fully prepared to answer questions. To the limited extent that I am so prepared, I will invoke any fifth amendment privilege in response to any questions.

Chairman ROTH. Mr. McHugh, what was your occupation before going to work for the union?

Mr. McHUGH. Senator, I respectfully decline to answer on the basis of the right guaranteed to me and all persons by the fifth amendment to the Constitution of the United States.

Chairman ROTH. How did you receive the appointment of the trustee of the Santa Barbara local 498?

Mr. McHUGH. Senator, I respectfully decline to answer on the basis of the right guaranteed to me and all persons by the fifth amendment to the Constitution of the United States.

Chairman ROTH. On June 24, 1975, following the international audit of local 498, the international removed you as trustee of the Santa Barbara local. Despite this, in March 1977, you were again appointed an international trustee, this time to Reno local 86. Why did this happen?

Mr. McHUGH. Senator, I respectfully decline to answer on the basis of the right guaranteed to me and all persons by the fifth amendment to the Constitution of the United States.

Chairman ROTH. Mr. McHugh, I see no point in pursuing this line of questioning. It is obvious that you are going to take the fifth amendment. I would advise you and your counsel that this subcommittee will consider granting you immunity and recalling you so that you may testify in answer to our questions. Would you care to comment, Senator Nunn?

Senator NUNN. No, Mr. Chairman. I would just say we had hoped to be able to explore a good many areas with the witness today, but he is invoking his right, which he has the opportunity of doing. I think that is clear from the questions you asked him, so I won't pose any questions.

Chairman ROTH. The witness is dismissed.

Our last witness is Georgia Rosen, former business agent, local 28.

[At this point Senator Nunn left the hearing room.]

Chairman ROTH. Would you please stand and raise your right hand? Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Ms. ROSEN. I do.

Chairman ROTH. Please be seated. Please proceed with your statement.

TESTIMONY OF GEORGIA ROSEN, FORMER BUSINESS AGENT, LOCAL 28

Ms. ROSEN. Mr. Chairman, and members of the subcommittee, my name is Georgia Rosen. I am a resident of San Leandro, Calif. For 30 years I have been employed in the restaurant business as a waitress, hostess and a union official. For all of these 30 years I have been a union member.

I am here today at your request to describe for you my experience as a member and an officer of local 28 of the Hotel Employees and Restaurant Employees International Union. My experience with that local dates back to its creation in September 1975. I am still an active member of local 28, and I served as one of its officers from its very first days in 1975 through January 1977. I believe that I can say with certainty that based on my 30 years of union membership and service, the years between 1975 and 1980—that is, the period during which Mr. Lane was secretary/treasurer—were an absolute catastrophe for local 28, as a result of Mr. Lane's misconduct and abuse of the local and its members.

My experience as a union officer began in 1964 when I was elected to the executive board of local 31, one of the old locals which later merged to become local 28 in 1975. From 1964 to 1971, I was a vice president of local 31 and an ex officio member of its executive board. In 1971 I was elected to the office of business agent, which I held up to 1977, although following the 1975 merger, Mr. Lane did not permit me to function as a business agent and kept me confined to the local union's office instead.

During the years I actually worked as a business agent, I was assigned to a specific area, within which it was my responsibility to see that employers complied with the provisions of the local's collective bargaining agreement. Mostly, this meant seeing to it that restaurant workers were union members and that their working conditions were up to the collective bargaining agreement and all applicable laws. It was while I was performing these duties in 1974 that I first ran across Mr. Lane's exploitation of union members.

What happened in 1974 was this: Karin Seritis, an employee of one of the restaurants in the area of my responsibility, came to me to complain that Lane, then secretary/treasurer of local 31, had proposed to her that she begin working as a prostitute instead of a waitress, and that when she had refused, Lane had personally kept her from working, to set an example for other union members.

I felt the Seritis' complaint was too grave to be handled on the local level, and I advised her to report it to the international. She did this quite some time later, but the international's only response of which I am aware was to inform Mr. Lane of Seritis' allegations. Later, she did pursue the matter through her own attorney and ultimately obtained a judgment against Lane and the local.

Karin Seritis was not the only union member blackballed by Lane. Many times I have heard Lane say this person or that person will never work in Oakland again. It was a standard threat. I was later to become a victim of the blackball myself, which I will describe in a few minutes. He would also occasionally resort to more colorful threats. One member was told her teenage daughters would find themselves on a slow boat to a whorehouse in South America.

From the moment the international installed him, Lane set about to establish a one-man stranglehold on local 28. Political opponents were not tolerated. I believe that my transfer from business agent to office worker was meant to separate me from my constituents, with whom I was too popular for Lane's taste.

My experiences in the office reinforced my suspicions concerning Lane. For example, as an office worker, I was able to see how Lane caused the union's check signatories to sign blank checks for his use. One such signatory, Jody Kerrigan, confirmed that she was doing this when I asked her about it. "It's just expense checks" was her explanation. Lane would regularly receive expense reimbursements without submitting a single piece of supporting documentation. He also spent large sums of union funds without prior approval. In one case, he spent $5,000 for a party to impress the international union.

[At this point Senator Nunn left the hearing room.]

Ms. Rosen. Lane's appointment by the international finally ran out, and he was required to hold an election. Originally scheduled for 1978, Lane arranged for it to be moved up to November 1977, which was a good thing for him since he was indicted in 1978. He ran his election campaign almost entirely on union funds and union time. Everybody in the local 28 office was ordered to drop what he was doing and work full-time on his campaign. Local 28 cards, phones, and printing presses were put to work to get Lane reelected.

At this point I had had enough. I decided to run against Mr. Lane myself. Of course, I lost the election, but it was later thrown out altogether by the Federal court because of the sort of thing I have just described. The election wasn't all I lost, either. For having had the audacity to run against him, he blackballed me from January 1977. I did not return to work until March of 1981. My husband, at that time a bartender with over 22 years of service in the U.S. Navy, whose only offense was being married to me, was also blackballed for over 2 years. I am happy to report that we are both back to work at the present time.

Chairman ROTH. Mrs. Rosen, I appreciate your being here. I just want to say how outraged I am by the story you and the other witnesses are telling about Oakland. To me it is one of the worst situations, most corrupt that I have heard. None of us can be satisfied that until we eliminate this kind of racketeering, taking advantage of innocent people—the purpose of union membership is to protect workers, not to put them in a position where they are taken advantage of. Particularly what they did to these young women is unbelievable.

Let me ask you one question. How old was Karin Seritis when Mr. Lane——

Ms. ROSEN. She was 18.

Chairman ROTH. Only 18 years old. What exactly did he propose to her?

Ms. ROSEN. Well, she told me, when she came to me, she said that he had offered her a job on a fun train he was involved in to Reno. He wanted her to so-called service the train. I don't imagine that it would have been performed on the train. But entertain his out-of-town people and people that he would send up there, and he wanted her to go up for the weekend with them.

Chairman ROTH. Now, when he said that to members, that "I will make certain you never work in Oakland again," did he have the authority, the power to do that?

Ms. ROSEN. Well, he didn't have the power, but he had the stranglehold on them. I mean, you call an employer and say, "Hey, if you hire that girl, I will pull your crew out and close you up," you are not going to hire her, are you?

Chairman ROTH. So for all practical purposes, he could make good on his threats.

Ms. ROSEN. That is right.

Chairman ROTH. In other words, he was using his position not to protect and help the workers but for his own personal gain.

Ms. ROSEN. Heavens no.

Chairman ROTH. Exploitation.

Ms. ROSEN. He could care less about the workers, and he would tell them so.

Chairman ROTH. In the 1977 campaign, was the local newspaper put to any particular use?

Ms. ROSEN. Yes.

Chairman ROTH. Would you explain?

Ms. ROSEN. Well, he had a ticket printed in one of the papers that said maintain this ticket and a democratic union. Well, the people that he had on that ticket, they weren't even—they weren't elected at all. They were people that he intended to hire or maintain on the payroll if he were elected secretary/treasurer. But to the members it looked like—because our members were not that accustomed to officers not being elected. That was a fairly new thing. If you saw the secretary/treasurer's picture and the other people's picture on that same ballot, you naturally assumed they were all running for the same—you know, on the same ticket.

Chairman **Roth**. Now, you testified that Ray Lane campaigned on union time and money—a very, very serious charge. Do you have any evidence of that?

Ms. **Rosen**. Well, I was not allowed mail from the union office for 4 years because I didn't get along with Mr. Lane, and he cuts you off the mailing list. I have his campaign literature with me here with an envelope attached that came from our union office and was run through our union machine. We have an addressograph. Each member had a ledger card with a ledger number on it. It would print your name and off to the right your ledger card number. And this came from the union hall and the mail was stuffed in the union hall by union employees.

Chairman **Roth**. So he was using it for his own personal use. Do you want to submit that for the record?

Ms. **Rosen**. I believe you have a copy of that, don't you, the envelope?

Mr. **Weiland**. We have a copy.

Chairman **Roth**. Yes; we do have that. It will be included as part of the record.

[The material referred to was marked as "Exhibit No. 10," for reference, and follows:]

EXHIBIT NO. 10

Dear Member:

Are you undecided on how to vote in the upcoming election in Local 28? We're not! You shouldn't be! This letter should help you decide.

We all know Ray Lane and what he's done for Local 28, but the question is, who is Georgia Rosen and the opposition, and what have they done for your local union? Do you know any of the opposition and have you ever been represented by them? Why are they running? Do you know who's financing their campaign?

One of her biggest supporters is Henry Mozell, ex-Local 28 organizer who was fired for failing to organize even one establishment in over one year on the job. He then sued your Local Union. He's now using the office of the Consumer Council in East Oakland in support of Georgia Rosen. Another big supporter of Sister Rosen ran a non-union restaurant on Grand Avenue. It doesn't surprise us to see Georgia Rosen attract this type of support,after all, she and her husband owned a non-union restaurant in Alameda while she was a Business Representative for Local 31.

Would it bother you to know that a small group of anti-union Oakland owners are supporting her campaign in hopes of getting rid of Ray Lane and his progressive administration?

These are some of the same bosses Local 28 faced in negotiations last year which resulted in a record breaking settlement. (Not the 7% she mentions in her phoney campaign literature.) We assume these owners are still bitter. They proved it by attempting to break your Chief Negotiator, Ray Lane, and you the members. What did she promise them? Well it didn't work then and it won't work now. You can see to that.

Why was Georgia Rosen taken out of the field on the merge?

In one of her houses alone, 34 out of 64 people were non-union. She failed to reinstate countless members back to work who were unjustly fired. She was given another chance by the present administration to prove her worth via an office job with the Local at her same business agent wages. In spite of that consideration, she then sued your Local for $10.00 per week more, "but lost". Your Local Union only fires officers and employees for incompetance or dishonesty. Georgia Rosen's dismissal was approved by the Executive Board and ratified by the General Membership.

How do you feel about the "National (so called) Right to Work Committee" (Labors biggest enemy) being involved in this election?

She testified against your union on behalf of the National Right to Work Committee on Friday, October 28, 1977, at 10:00 a.m. In her testimony and in her campaign literature she attacked your union job dispatching system, claiming misuse of authority. A good example of misuse of authority was when Ray Lane caught Georgia Rosen dispatching her husband to a bartending job, out of order, to the Leamington Hotel. The local had many qualified unemployed bartenders available who had signed up prior to her husband.

How loyal can she be to the union when she advised a couple of bartenders to join the Teamsters Union?

While working for Local 28, she assisted 2 women in suing your local and three of its officers on false charges that has resulted in bringing you and your local under public criticism. The result of her sneak attack and false charges has hampered your local in organizing the non-union establishments. If Georgia Rosen and her supporters can resort to those ugly tactics to get elected to office, then what is she capable of if elected. The opposition will no doubt try to make headline prior to the election, like they have in the past year, hoping to embarrass your present officers. So don't be surprised. All of the investigations by various Federal and Local Agencies were instigated by Georgia Rosen and her supporters.

Can you trust a person who is trying to destroy your union for the expressed purpose of taking over its leadership?

Last year one of her misguided supporters under her direction went to the International Union, Local Police, F.B.I., State Attorney General, Local District Attorney and several others which was all well covered in the news media. Georgia Rosen recently testified before the "National Right to Work" attorneys to the fact that she was involved in this conspiracy. It served to kick off her quest for control of your local union. They have yet to prove any wrong doing by your present administration, and won't.

Secretary-Treasurer of a local union is a position of trust and must at all cost remain free of outside control. Managing your union affairs honestly and effectively is as important to you, the member, as anything you are involved in today. DON'T PUT YOUR HEAD IN THE SAND! Your JOB SECURITY is at stake! Don't jeopardize your hard fought contracts and the agreements yet to be negotiated, such as Richmond, East Bay Hospitals, Pinata Foods and Goodmans. You need the proven ability of Ray Lane and his administration to carry on in these all important tasks.

Vote, but vote wisely. You and only you will decide. If you support Ray Lane and his administration, and don't vote – you are voting for the opposition. Think about it!

Sincerely and Fraternally,

Concerned and Dedicated
Members of Local 28

Not printed or distributed at union expense.

IF YOU WERE INVESTING YOUR HARD EARNED MONEY IN STOCKS AND BONDS, WHICH WOULD YOU CHOOSE???

We realize you are not choosing a stock or a bond. This is by far a more critical decision. You are choosing the person and the administration whom will guide you in your future economic welfare, both on and off the job. So let's compare the two.

POSITIONS HELD

RAY LANE		GEORGIA ROSEN
1.	Business Agent 5 years	1. 4 years
2.	Delegate to the Central Labor Council	2. Same
3.	Vice President Local Joint Board	3. None
4.	Vice President State Culinary Alliance	4. None
5.	Secretary-Treasurer - Local #31	5. None
6.	Secretary-Treasurer - Local #28	6. None
7.	Delegate to the International Union	7. None
8.	Chief Negotiator - Local #31	8. Never negotiated or
9.	Chief Negotiator - Local #28	9. signed a Union contract in four years.
10.	Trustee - Oakland Restaurant & Tavern and Pension Funds	10. Never
11.	Trustee - W.C.C. Restaurant & Tavern Welfare and pension funds (Richmond).	11. Never
	JOB PERFORMANCE FOR THE MEMBERS	
1.	Reinstated countless members back to work who were fired unjustly.	1. On occasion, "if she liked you".
2.	Fought for and received thousands of dollars in back wages for the members.	2. Infrequently
3.	Sued for and gained thousands of dollars in back medical, dental, life and pension benefits for the members from cheating owners.	3. Referred all such matters to Secretary Lane due to lack of understanding.
4.	Parlayed Local #31 into a sound financial organization in (3) years as secretary.	4. Too busy doing her own thing.
5.	Successfully merged four East Bay Unions into one fighting organization - Local #28.	5. Removed from her position of Business Agent by the 3 merging Oakland locals due to her lack of performance.
6.	Maintained a fair non-discriminating dispatching system for all out of work members.	6. She undermined the dispatching system by sending her husband & friends out to jobs out of order.
7.	Through attrition, hired more minorities to the union staff.	7. Never recommended minorities for hire.
8.	Maintained 100% Union membership in all his houses while he was a Business Agent.	8. Removed as a Business Agent for allowing countless workers to remain non-union in her houses. One such place ran as high as 50% non-union. This causes Union Dues to go up.
9.	Attended numerous schools and colleges attaining more knowledge, to better represent the members.	9. Took one (1) course in four years "Parliamentary Procedure".
10.	Negotiated highest Hotel contracts in the United States	10. None
11.	Negotiated highest Restaurant contracts in the United States.	11. None

RAY LANE	GEORGIA ROSEN
12. Negotiated highest Race Track contract in the United States.	12. None
13. Negotiated highest ball park contracts in the United States.	13. None
14. Negotiated highest banquet scales with 15% guaranteed tips.	14. None
15. Negotiated highest Hospital contracts in the United States	15. None
16. Founder of the Voice of Local 28 for the members.	16. None
17. Increased pension benefits 57-1/2% his first 2-1/2 years as a Union Trustee.	17. None
18. Disliked by the vast majority of owners (that's a plus -- not a minus). Owners don't pay his salary - YOU DO!	18. Many owners are so fond of Georgia Rosen they are supporting her for Secretary-Treasurer.
19. No fear of selling out to the owners.	19. Was always a problem.
20. Fights anti-worker organizations, such as the National (so called) Right to Work Committee.	20. Recently testified against Local 28 and Ray Lane before the (so called) Right to Work attorneys, which will result in further undermining your union protection.
21. Disliked by the opposition.	21. Likewise.
22. Office Business Manager Local 28 and 31.	22. Fired for incompetence with the approval of the Ex. Board and the General Membership.

ATTITUDE

23. Strong! Positive and energetic	23. Bitter, destructful, seeks vengence.
24. Relies on past record & loyalty of concerned and responsible membership for re-election.	24. Promises many members jobs too numerous to fulfill and solicits anti-union agencies to smear her opponent. Uses smear tactics.
25. Source of campaign money - paid for by the incumbents and the Committee. Receipts to prove it.	25. Refuses to tell where her money is coming from.

Now let's look at the rest of "her followers" on her proposed new administration - A "New 28 for 78".

Bernice Moitoza - candidate for President of Local 28 and Cut Moitoza - candidate for Executive Board of Local #28.

Bernice Moitoza has always opposed her union administration, except when her husband "Cut" worked 14 years for "Bernice Cooper" who was sent to prison for embezzelling union funds in Richmond. NEED WE SAY MORE ? ? ?

Peggy Botkin - candidate for Vice President, has shown little or no interest in her union since joining. She has been suspended three (3) times for failure to pay union dues.

IF THE ABOVE INFORMATION WERE TO DESCRIBE TWO RIVAL STOCKS - WHICH WOULD YOU BUY ? ? ? ?

The Committee to Re-Elect Ray Lane

Not printed at Union expense.

Chairman Roth. Do you know personally any of the international officers?

Ms. Rosen. Yes.

Chairman Roth. Did you ever hear Ray Lane boast about his relationship with them?

Ms. Rosen. Well, I guess not less than 100 or 200 times. Every time anything would happen, a member would threaten to call the international or report him, he said, "Go ahead. I have Hanley in my hip pocket." That was his stock answer. That was Edward T. Hanley, our general president.

Chairman Roth. The international president.

Is it true that at one point in time Ray Lane had a paid bodyguard on the payroll of local 28?

Ms. Rosen. That is correct; by his own admission.

Chairman Roth. What was this bodyguard's name?

Ms. Rosen. Jack Reubin.

Chairman Roth. What was his official title as a member of the union?

Ms. Rosen. Well, he reported to membership that he had hired him as an organizer.

Chairman Roth. What, in fact, did he do?

Ms. Rosen. He didn't do anything but follow Mr. Lane around.

Chairman Roth. Did he carry a gun?

Ms. Rosen. On occasions.

Chairman Roth. Did Reubin ever do any organizing?

Ms. Rosen. He had never been involved with organized labor. He knew nothing about the labor movement.

Chairman Roth. How do you know he was paid as an officer?

Ms. Rosen. That is what Mr. Lane announced that he was being paid for. He had hired him as an organizer.

Chairman Roth. Who first proposed the merger into local 28?

Ms. Rosen. The international union.

Chairman Roth. What was the reaction, initial reaction of the membership?

Ms. Rosen. Well, we were local 31 at that time. That was waiters, waitresses, bartenders—everything but cooks and bartenders. Bar boys I meant to say. We were the biggest local and kind of the leader of the three locals; the cooks and bartenders and us. We were not really for the merger, our members were not.

Chairman Roth. In your opinion, was the merger ultimately a benefit to the membership?

Ms. Rosen. It could have been. It could have made a much stronger union had Mr. Lane not been in power to run it.

Chairman Roth. To your knowledge, has membership grown or declined since the 1975 merger?

Ms. Rosen. Membership has declined about 2,500 members since the merger, at least.

Chairman Roth. Finally, on the basis of your 30 years of experience, is membership's view of the local today more positive than it was when you first entered the labor movement or more negative?

Ms. Rosen. I am sorry to say as a former elected officer of my union that membership at this point—the reason they pay their dues is it is a condition of employment. They have no confidence in the union, and if there is any way they could get—in fact, we have members trying to organize a way to get out of being in our union and still work in the houses that they work in.

Chairman **Roth**. In other words, they don't see the local representing their benefits.

Ms. **Rosen**. Total apathy and just—they pay their dues under protest. It is a condition of employment.

Chairman **Roth**. Mr. Weiland

Mr **Weiland**. Mrs. Rosen, you mentioned membership was down about 2,500 members. What percentage would that be?

Ms. **Rosen**. Well, we had around 5,800 at one time, so what——

Mr. **Weiland**. Down about 40 percent?

Ms. **Rosen**. Yes

Mr. **Weiland**. Mr. Jones, the prior witness, testified that there was a plan, as far as he understood, for the international to assume control over pension and health and welfare funds, but that this movement was resisted by many of the west coast locals. That is, they were not interested in allowing their funds to be assumed by the international. Do you agree with Mr. Jones' assessment, that generally there was resistance on the part of the west coast locals to that idea?

Ms. **Rosen**. Yes.

Mr. **Weiland**. Is that still the case?

Ms. **Rosen**. I don't know. I am not that closely affiliated. I am not on the inside any more. I am just a dues paying member, and I just go to meetings once a month. Well, not now. We are in trusteeship. There are no meetings.

Mr. **Weiland**. Finally, Mr. Chairman, just let me say for the record we have been in touch with Ray Lane's lawyers, two different lawyers, including his current public defender, in an effort to get his testimony before the subcommittee. He has been under indictment for some time, and in fact during this week he has been on trial in San Francisco. The last I heard the jury was deliberating. So obviously Mr. Lane was unable to attend. We hope to secure his testimony at a later time.

Chairman **Roth**. Again, I appreciate very much your being here today, Mrs. Rosen.

Ms. **Rosen**. It was my pleasure.

Chairman **Roth**. You are excused.

This concludes the second segment of our public hearings on the Hotel Employees International Union. We have gathered some very important, relevant information about this union and how its affiliated locals have been run, and it does not paint a very pretty picture. The situation in Atlantic City remains turbulent and a cause of great concern for State officials. In the four western locals reviewed this week, we have seen evidence of significant control by the international union over local administration, either through trusteeships, mergers, elections, or other means. We have received continuing evidence indicating a master plan to merge local pension and health and welfare funds into one massive international fund. It is difficult not to notice the similarities between this plan and the Central States Teamsters pension fund. It has been a continuous source of concern for this subcommittee and the Department of Labor.

At our next hearings we shall go into and examine the pension and health funds in much more detail. I regret to say that there is too much evidence showing that these unions have been run not for the benefit of the employees but for the self-interest of those in control.

At this time the subcommittee will be in recess.

[Whereupon, at 12:30 p.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

APPENDIX

STAFF STATEMENT
HOTEL EMPLOYEES AND RESTAURANT EMPLOYEES INTERNATIONAL UNION
LOCALS 19 AND 28
SAN JOSE AND OAKLAND, CALIFORNIA

I intend this morning to describe briefly what our staff investigation has disclosed concerning two of the Hotel Employees and Restaurant Employees International Union (HEREIU) California locals, 19 and 28 in San Jose and Oakland, respectively.

In conducting our current investigation into the question of corruption in HEREIU and its larger locals, and the effects, if any, of such corruption on their legitimate functions, PSI staff members have conducted dozens of interviews and reviewed hundreds of pages of documents. As a result, we discovered in these two Bay Area locals evidence which suggests parallel patterns of shrinking membership, abuse of union procedures, self-aggrandizement, deceit and exploitation of the rank-and-file union members.

The similarities between Locals 19 and 28 begin at their creation in 1975. Each was formed from the merger of pre-existing locals: Restaurant Workers Local 180 and Bartenders Local 577 in San Jose; in Oakland, Local Unions 31, 52 and 228 and—somewhat later—Bartenders Local 595. In each instance, the merger permitted International President Ed Hanley to install his own interim selection to the top position in the newly-created local. Hanley's pick for Oakland was Ray Lane, an official of former Local 31; San Jose received a former Chicago official, Frank Marolda.

Local 28 - Oakland

Lane brought with him to the new local a criminal record, a tendency toward nepotism and an inclination to use the local's members and funds for his own improper purposes.

Lane's propensity for involving members of his immediate family in his union activities, which was manifested repeatedly at Local 28, did not begin there. In

1974, while still Secretary-Treasurer of predecessor Local 31, Lane engineered the election of his son-in-law, Chuck Irvine, as Local President, as an alternative to the incumbent, who had opposed Lane's plunder of Local 31. This was accomplished despite Irvine's utter lack of any connection with the local or, indeed, the restaurant industry, prior to the election. By Irvine's own admission, Lane arranged for a local catering firm to provide false documentation purporting to show that Lane worked in the industry in 1974. I would like to submit a copy of Irvine's W-2 as a Subcommittee Exhibit at this point. In addition to Irvine's employment records, it was also necessary to arrange for records at the International to reflect the same falsification. That it was accomplished is history; how it was done remains an active question in this investigation.

In the year and a half following Irvine's election, Lane's salary more than doubled, and his expense allowance increased 800%.

Lane's nepotism at Local 28 has included the employment of his two stepdaughters, one of whom ultimately served on Lane's hand-picked Executive Board, Local 28's governing body.

Having received an interim appointment of three years in 1975, Lane faced an election in the spring of 1978. With the assistance of the International, he advanced the election to November, 1977.* According to a colleague and confidante, Lane sought to move the election up in order to prevent effective campaigning by opposition candidates. His campaign methods were consistent with this strategy: eyewitness accounts obtained by PSI established that Lane personally removed opponents' posters, used local employees, funds and facilities to promote his own candidacy, and ultimately coerced thousands of dollars of "voluntary" contributions by other Local 28 officials. These tactics, which understandably got Lane elected, ultimately resulted in a federal courts rejecting the entire outcome and ordering a new election. I am submitting the judgment in Marshall v. HEREIU Local 28, et al., C-78-2671 ACW, No. Dist. Cal. as a Subcommittee Exhibit.

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* Interestingly, at approximately the same time, members of Local 19 in San Jose, dissatisfied with Marolda's style of leadership there, petitioned the International to also advance their 1978 election. While granting Lane's request, the International ignored the similar request by the Local 19 members.

PSI investigators were also told that Lane had an additional motive in advancing the 1978 election, which was his suspicion that federal prosecutors were contemplating a criminal proceeding in 1978 based on his misconduct at Local 28. It was Lane's apparent belief that he would be better able to oppose a prosecution following an election than to campaign while under indictment. Both suspicion and belief were true. In 1978, he was indicted for embezzlement of union funds, beginning a prosecution in which Lane was defended by attorneys who were paid more than $70,000.00 in Local 28 funds. Our investigation disclosed no authorization for such payment. Indeed, in January of this year, the present administration of Local 28 filed suit to recover this sum, and more than a million dollars in additional damages. Lane's defense was nevertheless unsuccessful: Lane ultimately pleaded guilty and in 1980 was sentenced to federal prison, where he spent six months.

Lane's guilty plea ended his term in office, but not before a California court, in response to a civil suit, found that he had solicited young women members of Local 28 to become prostitutes, and indeed had conditioned their continuing employment on their receptiveness to such propositions.* The response of the International, which had installed Lane initially, was not only to leave Lane in place but also—according to Lane himself—to guarantee to pay any damages awarded against him.

Lane was no stranger to prostitution: according to evidence uncovered by PSI staff. Between May, 1976 and April, 1977 he caused union checks totalling almost $2,000.00 to be issued in the name of a single Local 28 member, who received a small part of the total in return for sexual services and the use of her name. This woman has recently brought suit against Lane and Local 28, charging that her involvement was coerced by Lane.

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*This case, Seritis v. Lane (488584-7, Superior Court, Alameda County), was subsequently remanded an appeal. The findings of fact concerning Lane's conduct were left undisturbed, however. Perhaps most significant for this investigation is the fact that Local 28, as well as Lane himself, was found liable for Lane's conduct. Thus, the financial consequences of Lane's appointment by the International may well continue long after Lane has left the scene.

His federal conviction in 1980 was not Lane's first encounter with the criminal justice system: in 1950, he had been sentenced to a lengthy prison term for robbery. I am submitting a copy of his criminal history for the record. This is mentioned not merely by way of background, but also to indicate the manner in which Lane, the International's selection to run Local 28, approached his duties to the local. His earlier prison sentence is relevant in this regard because it was in San Quentin that Lane made the acquaintance of Abe Chapman, also known as "Trigger Abe". Though they met in these difficult circumstances, Chapman apparently impressed Lane, for following Chapman's release from a thirty-six year prison sentence, Lane hired him as an "insurance consultant" for which Chapman was paid $4000.00 in Local 28 funds. Chapman admitted to a PSI investigator that he represented Alan Dorfman's Amalgamated Insurance Company and had been involved in obtaining the services of a vision care center and dental plan for Lane's local. Chapman also admitted knowing reputed organized crime figures including Joey Auippa and Tony Accardo. Chapman's criminal record and pertinent correspondence between Chapman and Local 28 are submitted herewith as Subcommittee Exhibits. Also submitted is a copy of the check in payment.

Regrettably, Lane's conviction did not end his involvement with Local 28. Though removed from office at the time of his 1980 guilty plea, in 1981 Lane returned following his imprisonment to induce a surrogate to file false charges against the current Secretary-Treasurer, as part of an elaborate scheme to regain control of the local. This surrogate, Gary Gilbert, was promised a paid position with the local as his reward. The plan was foiled, and Lane is again being tried on federal charges. His trial began on Tuesday of this week.

Local 28 has been placed in trusteeship by the International, with a letter which described the local's operation as "a threat to the welfare of the members".

As a closing note with regard to Local 28, I would point out that during Lane's tenure in control of the local, while the total number of restaurant employees in the Oakland area grew by approximately 30%, the dues collected by Local 28 dropped approximately 15%. Between 1975 and 1980, the local's net worth plummeted from $476,000 to minus $1.4 million.

* Local 19 - San Jose *

Turning now to Local 19 in San Jose, where we find Frank Marolda, appointed by the International's Ed Hanley in 1975 as Local President; he has since generated a storm of controversy. He was convicted of embezzling Local 19 funds in 1978, but the conviction was later reversed. He is now under indictment in another federal prosecution. He has spent thousands of dollars of union funds on his defense. As a result of Marolda's criminal prosecutions and related civil suits, Local 19 owed approximately $80,000 in unitemized legal bills as of June 30, 1982. Nonetheless, Marolda not only remains in office today, but also supplements his salary with approximately $12,000 from the International as a "State Organizer".

Marolda's conduct in office in many respects appears to be similar to that I have described in connection with Local 28. Like Ray Lane in Oakland, Marolda has brought his family into the local's business: his brother, Ralph, was paid approximately $20,000 in Local 19 funds in 1976 for services as a "representative". In fact, according to eyewitness testimony obtained by PSI, Ralph's primary responsibility was as his brother's bodyguard. Both men have carried revolvers on occasion, and members of Local 19 have been intimidated by the sight of those guns more than once.

Required to hold an election in 1978, Marolda appointed his own man to be head of an election committee reviewing candidates' qualifications. This man, Daniel Fragnito, now serves as Maroldo's administrative assistant; he declined to be interviewed by PSI. All candidates not on Frank Marolda's slate were brought up on formal charges by Marolda or one of his fellow incumbents and disqualified. To make certain that the membership got the news, Marolda saw to it that campaign flyers endorsing his slate and reporting the charges against his opponents were circulated. I submit for the record a copy of the flyer. When the challengers sued to ask for a new election, the Department of Labor, represented by the United States Attorney for the Northern District of California intervened on their behalf but the court refused to order a new election. In a separate lawsuit, over Local 19's lack of any mechanism for removal of corrupt officials, Labor again intervened and was successful. Local 19's appeal is now pending.

Both Marolda and Fragnito declined to provide testimony to this Subcommittee or its staff. A copy of Marolda's attorney's letter declining to appear is submitted for the record.

According to a former Local 19 official, membership has declined significantly and assets dwindled under his presidency--facts borne out by PSI analysis of available data which revealed a 25% drop in dues collected during the period 1976 to 1981. In a 1977 letter terminating an employee, which I am now entering into the record, Marolda himself admitted "a recent marked loss of membership in the Local". Nevertheless, Marolda has received an increase in salary in every quarter since its reporting as a separate item began in early 1981. Additionally, a life insurance policy has been funded for Marolda, though PSI could find no record of the requisite authority for that policy in the records of Local 19's Executive Board. At least two members of that Board have no recollection of approving the policy's purchase.

It is not coincidence that Lane in Oakland and Marolda in San Jose share methods and tactics, for, as this Subcommittee has heard, the two men have met often in the last two years to share ideas, such as the use of the local's dues-supported newspaper as personal advertising. For example, Local 19 newspaper's December 1976 issue contains four photographs, three of which are of or include Frank Marolda. The name "Marolda" appears approximately fifteen times in the same four pages.

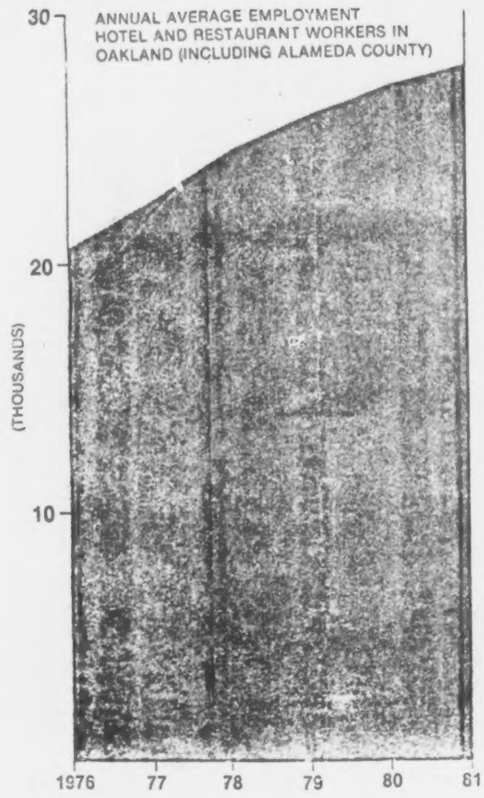
HOTEL EMPLOYEES AND RESTAURANT EMPLOYEES LOCAL 28 - OAKLAND

Executive Officer	Ray Lane	Ray Lane	Ray Lane	Ray Lane	Herman Leavitt Trustee	Frank Von Kempen	
ASSETS AND LIABILITIES (12/31/xx)	1975	1976	1977	1978	1979	1980	1981
Cash (Banks)	154,649	108,600	162,193	152,296	47,065	12,689	TRUSTEESHIP
Total Assets	486,378	493,716	504,451	441,134	331,289	564,056	
Total Liabilities	9,926	-0-	-0-	22,952	67,750	1,964,653	
NET ASSETS	476,452	493,716	504,451	418,182	263,539	(1,400,597)	
Relevant Liabilities							
Attorney Fees				15,272	31,000	65,000	
Total Receipts	367,829	895,241	837,152	862,811	722,632	687,873	
Dues	192,449	648,586	670,720	637,411	575,177	556,783	
Cash Received From Merger Locals 31,52,228	134,352						
Relevant Disbursements							
To Officers and Employees	77,457	288,175	250,603	273,539	256,209	237,087	
Professional Fees	4,840	16,445	46,808	103,687	36,716	38,777	

HOTEL EMPLOYEES AND RESTAURANT EMPLOYEES LOCAL 19 - SAN JOSE

Executive Officer	Frank Marolda	Frank Marolda	Frank Marolda	Frank Marolda	Frank Marolda	Frank Marolda	Frank Marolda
ASSETS AND LIABILITIES (12/31/xx)	1975	1976	1977	1978	1979	1980	1981
Cash (Banks)	77,883	65,802	128,695	29,652	33,405	16,830	22,985
Total Assets	292,002	269,527	332,920	233,514	237,532	219,461	217,859
Total Liabilities	4,576	4,686	497	11,609	13,528	77,728	103,542
NET ASSETS	287,426	264,841	332,423	221,906	224,004	141,733	114,317
Relevant Liabilities							
Legal Fees						73,868	89,000
Total Receipts	269,846	735,540	702,645	516,332	566,870	553,060	549,355
Dues	132,906	566,206	521,152	425,092	447,062	436,569	426,407
Merger Funds Transferred	96,809						
International Organizing Assistance		22,000	22,900				
Relevant Disbursements							
To Officers and Employees	65,560	267,988	199,484	186,620	181,782	197,787	181,045

OAKLAND



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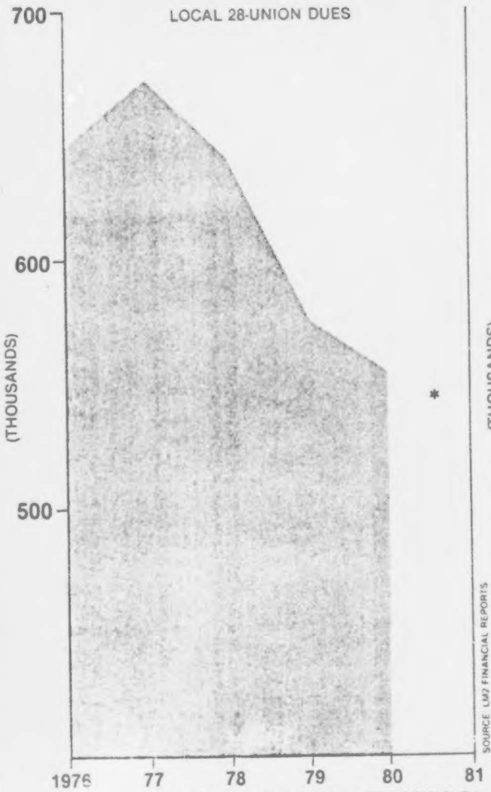

DUES LEVIED IN 1976-$10.00 TO $13.50/MONTH
DUES LEVIED IN 1980-$5.50 TO $14.50/MONTH
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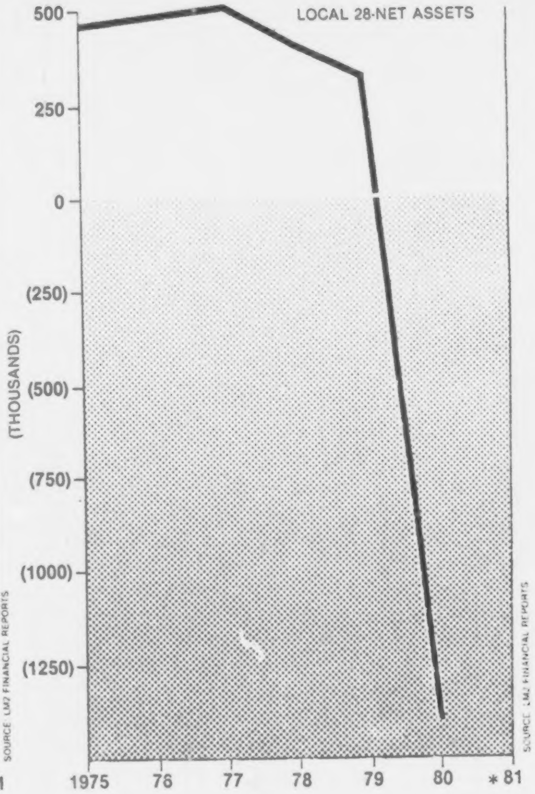

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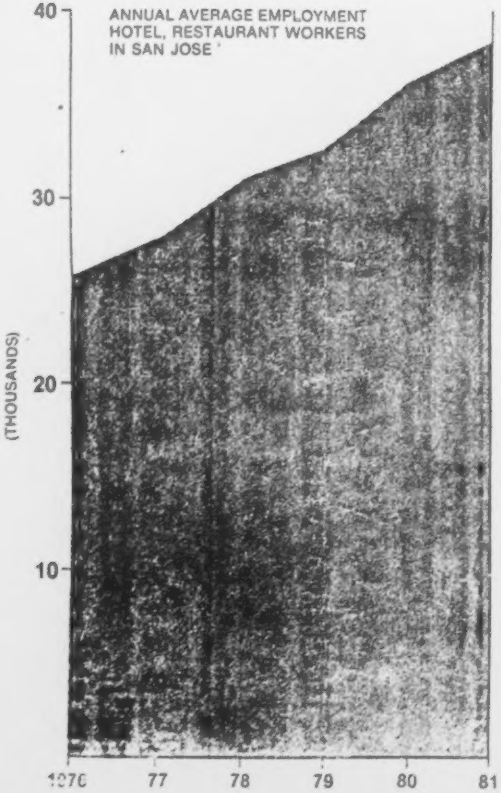
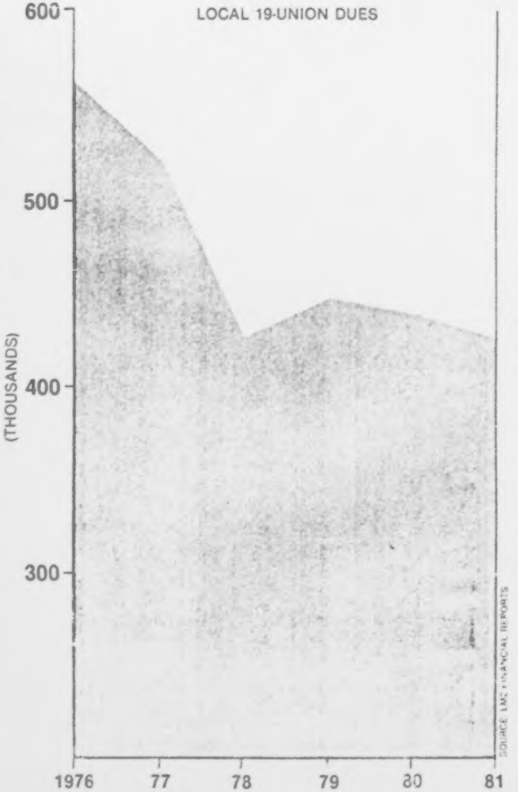
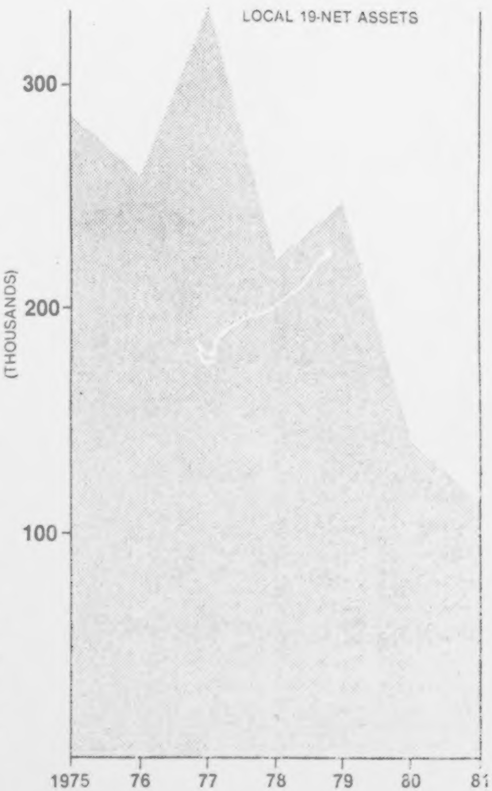
SAN JOSE





SOURCE LMC FINANCIAL REPORTS

DUES LEVIED IN 1976 $5.00 TO $13.00/MONTH
DUES LEVIED IN [illegible]



SWORN AFFIDAVIT OF JACK WALLER

My name is Jack Waller and I reside in Mountain View, California. I am 63 years old. I have been a member of the Hotel Workers Union since 1936. I was employed as a business agent (BA) with San Jose Local 19 from 1974 to 1977 (originally Local 180).

Frank Marolda was sworn in as President of Local 19 in November 1975 by the International General President, Ed Hanley. Mr. Marolda was appointed to this position by Hanley following the merger of the waitress and bartenders locals. Mr. Marolda always talked about how close he was to Ed Hanley and how they were the best of friends. Mr. Marolda usually came to work for 3 or 4 hours a day and did little or no work while there. I believe that his policies and manner have cost the Local about 2,000 members and union funds have been wasted. This includes money sent from the International for organizing which was used for general expenses.

It is normal procedure to hold an election at the earliest possible date after a merger. Mr. Marolda failed to call an election and after a year or so a group of us petitioned the International for an election but our request was ignored. Eventually when an election was held in September of 1978, Mr. Marolda had all opposition or potential opposition disqualified and the election was a farce.

Several of us formed a group called Local 19 Members for a Democratic Union to try to fight what was happening to our union. I personally spent about $4,000 in this effort to no avail. For the last few years I have paid my dues and have had nothing to do with Local 19. At one point we petitioned the International to remove Mr. Marolda. A Mr. Jack Kenneally from the International came out, interviewed many of us, and left promising to do something. However, nothing was done to help us. Ken Paulsen, son of Charles Paulsen, then Director of Organization for the International, was involved with our Committee. However, the International found out about his participation and he was forced to stop because his father, who was quite blind, would be fired and would not receive his pension if Ken continued with us. Shortly afterward Ken was transferred to a local in Alaska.

Following the merger the pension plan for employees of the local was arbitrarily dissolved by Ed Hanley and merged into the International Pension Fund. We didn't want it that way but had no choice. Ralph Marolda, brother of Frank Marolda, came to Local 19 from Chicago and we were told he was an International Organizer. However, he was paid by the Local. To my knowledge this expenditure of Local funds was never brought to the Executive Board for approval (or was done so long after the fact).

Ralph Marolda often carried a gun which he would exhibit to union officers and members on occasion. During one business meeting, Ralph stated, regarding a problem, "..if we can't do it that way, we'll do it this way...", at which time he pulled out his gun. At another meeting Frank Marolda said he wanted to get rid of Herschell Morgan as vice president of the Local. Ralph stated that if Morgan didn't resign he would walk him down a dark alley with a baseball bat. Another time I heard them say that, referring to Herschell Morgan, "The old boy ought to have an accident." Herschell finally resigned after being hounded for months by Frank and Ralph.

It is my opinion that Frank Marolda was sent out to San Jose to control the Local for Ed Hanley. I can see no other reason for the long delay in holding an election and the International's support of Mr. Marolda's high handed tactics.

It has been several years since these occurrences. I tried hard, and was totally defeated in my efforts to make our Local stable. So I have since then tried very hard to put it out of my mind, and as a result the dates are approximate.

I also know (without proof) that Frank Marolda harassed my employer (to cause me trouble) because he hired me, and I am also sure in my own mind that he contributed to, or caused, my dismissal from my job. I am still unemployed after 6 months.

If Frank Marolda sees or hears of this statement my troubles will continue, but it should be used if it will help to rid our Local and International of undesirables.

I have read and reviewed each page of this affidavit and I swear, to the best of my knowledge and belief, that the statements contained herein are true and correct.

Jack Waller

Sworn to and subscribed before me
this 20th day of September, 1982.

Patrick J Pyne
Notary Public

My commission expires March 16, 1986.

OFFICIAL SEAL
PATRICK J PYNE
NOTARY PUBLIC - CALIFORNIA
SANTA CLARA COUNTY
My comm. expires MAR 16, 1986

SWORN AFFIDAVIT OF CATHERINE MULLENS

My name is Catherine Mullens. I reside in Saratoga, California and am currently employed as a waitress. I have worked in the craft and have been a member of Hotel and Restaurant Union locals for about 30 years.

Frank Marolda was sent to the San Jose, California area in 1975 by the International as an organizer. Within a short time steps were taken to merge the waitress and bartenders locals into San Jose Local 19. Marolda was named President of the new local by General President Ed Hanley. No election of officers was held until September, 1978 by which time Mr. Marolda had succeeded in establishing his hirelings in key positions and thus controlled the election. I'd like to mention here that in 1977 many members petitioned International President Ed Hanley for an early election, however this request was denied.

Mr. Marolda hired me as a business agent in late 1975. I left that position in early 1976 and returned in October 1977 as office manager for Local 19. In June of 1978 I resigned to run for President against Mr. Marolda.

During the time I was employed by the Local I observed Mr. Marolda to be totally incompetent, with little apparent administrative experience, little knowledge of negotiations and he kept very irregular hours.

In 1975 Local 19 had approximately 346 union houses. Under Mr. Marolda's leadership this was reduced to around 187 by June of 1978, around 1,000 members were lost and the assets drastically depleted. The drain of assets has occurred in a number of ways: excessive hiring of unqualified personnel; union funds spent for Mr. Marolda's defense of criminal charges; and unnecessary payments to the Local's attorney for routine matters.

As office manager, I wrote one check for $20,000 to a Los Angeles attorney who defended Mr. Marolda and checks for many thousands more to both his attorney and the union attorney. In addition to money spent from the General Fund, Mr. Marolda set up a separate defense fund supposedly to finance C.M.

negotiations and strikes. Each member was assessed $1.00 per month for this fund, however, Mr. Marolda used these funds for his criminal defense. During the time I was office manager, at Mr. Marolda's direction, every membership report I sent to the International was falsified. All suspension and membership counts were inaccurate.

In 1976, Mr. Marolda hired an ex-Chicago policeman, Jim Modesto, as a business agent. Modesto was very inept with no union experience. His only qualification was being a friend of Mr. Marolda's. Modesto stayed for a short time and returned to Chicago. About this same time Mr. Marolda hired his brother Ralph Marolda, of Chicago, as an administrative aide at a large salary. Ralph's only function appeared to be that of flunky and bodyguard for Mr. Marolda. After about 1 year in this position Ralph chartered a Local, through the International to organize nursing home workers in the area. Ralph set up this local with the assistance of a woman who operated several homes, named Flora Souza. I understand dues were collected for a number of months until Ralph suddenly disappeared from the area.

Mr. Marolda also spent substantial union funds remodeling the upstairs of the building next to Local 18 headquarters for offices for himself and Ralph. I believe this was paid from the Health and Welfare Fund.

In 1977 a Danny Fragnito from somewhere in New York was working with Ralph in the nursing home Local. Following Ralph's disappearance Frank Marolda ordered me to put Fragnito to work for Local 19. Fragnito was not needed, was incompetent, reported to work late regularly and did little if any work. Fragnito is currently employed at Local 19 as a business agent and staff represetative.

1978 was an election year for Local 19 and Mr. Marolda wanted to get rid of the more popular members who might become opponents, so he brought charges against 18 members. He instructed me to find a trial board that would find them guilty. Because of this action and Local 19's decline under Mr. Marolda I decided to oppose him for President. Robert Schilling formed a group to oppose Mr. Marolda in 1977 and was terminated in October 1977. He also declared as a candidate for President. Both Mr. Schilling and myself along with several others were disqualified for non-payment of dues. At one point during the election Ralph Marolda told me he would kill that "SOB" Schilling, but his brother wouldn't let him. I would like to point out that Danny Fragnito was Chairman of the Election Committee which ruled on eligibility. I appealed my disqualification to the International President, Mr. Hanley, and on 9/5/78 I received a mailgram from Mr. Hanley declaring that I was eligibile for any office for which I was nominated. Mr. Fragnito formally protested the General Presidents decision and on September 11, 1978, four days before the election, I received a mailgram from Mr. Hanley rescinding his decision of 9/2/78 and I was once again declared ineligible.

Thereafter, I wrote to the Secretary of Labor complaining about the election. I would like to enter a copy of this letter in the record. I also submit a copy of a letter to Mr. Ron Davis, Secretary-Treasurer of Local 19 dated April 4, 1979 setting forth a series of charges against Mr. Marolda. This issue is still the subject of litigation in Federal court in a suit filed, by the Department of Labor, to remove Mr. Marolda from office.

I believe the appointment of Mr. Marolda to head Local 19, and the International's repeated refusal to address the many problems resulting from this appointment are not in the best interests of the union members of Local 19.

I have read the above statement consisting of this and two other pages. It is true and correct. I have initialed the first two pages and sign below.

STATE OF CALIFORNIA,
County of Santa Clara } ss.

On this 17th *day of* September *in the year one thousand nine hundred and* eighty two *before me,* Pat Boesiger *a Notary Public in and for the County of Santa Clara, State of California, personally appeared* Catherine Mullens

known to me to be the person whose name is *subscribed to the within instrument and acknowledged to me that* she *executed the same.*

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal, at my office in the County of Santa Clara, the day and year in this certificate first above written.

PAT BOESIGER
NOTARY PUBLIC - CALIFORNIA
SANTA CLARA COUNTY
My commission expires Nov. 12, 1983

Pat Boesiger
Notary Public in and for the County of Santa Clara, State of California

(General)

FORM 030-4242

SWORN AFFIDAVIT OF HERSCHELL MORGAN

My name is Herschell Morgan and I reside in San Jose, California. I was a member of Local 577, Santa Clara County, from 1936 to 1975 when, along with Hotel and Restaurant Local #180, it merged into Local 19. From 1939 to 1975 I was the Secretary/Treasurer/Business Manager of Local Union 577. Just prior to the merger, International General-President Ed Hanley called and asked me if I would be interested in taking over as President of the new Local. Based on the power given to the General-President at a special convention in San Francisco in 1974, Mr. Hanley could merge any Local in any way he saw fit and no regular elections would be held for 3 years. Shortly after this, Herman "Blackie" Leavitt, an International Vice-President At-large, from Los Angeles, flew to San Jose to talk to me about the job. He also told me that he did not know too much about the abilities of another individual from Chicago who was interested in the job. He did not mention this person's name. I later told Mr. Hanley I did not want the job, explaining my reasons. Mr. Hanley then appointed Mr. Frank Marolda, who was from Chicago and apparently the person Mr. Leavitt was referring to.

[illegible] I would like to point out that, as General-President, Ed Hanley appointed many "~~International~~ Organizers" throughout the country, who seemed to do little organizing. In many cases they were persons who were already holding positions in local unions, such as Secretary-Treasurer or President. These people were very helpful, when convention votes were taken, to put through whatever issues Mr. Hanley wanted.

I had a 3-year written contract with the International, as did other officers such as Sue Bosco and Joe Santamaria, which should have been in effect from October, 1975 to October, 1978. However, a few months after the merger Frank Marolda called [illegible] in and told me in the presence of his brother Ralph, who had also come to San Jose from Chicago, that he didn't want ~~anyone~~ [illegible] AGE 65 or older working for him and he asked me if I had ever thought of retiring. He said I should talk it over with my wife and let him know, as he was serious about it. I replied that I had a 3-year International contract and I intended to fulfill it, and at the end of 3 years I would make up my mind about running for a local union office. A few weeks later he talked to me about the incentives for retirement, and at his request I made up a list of the items we had agreed upon, but he would never sign it. On one occasion he told me he wanted to run some things by his attorney. I later contacted the attorney, and he told me he had not [illegible] his brother Ralph)

[illegible] Frank

heard from Mr. Marolda. After that, Business Agent Jack Waller told me that ~~Ralph~~ Marolda had said he would walk me down an alley with a baseball bat if I didn't retire, and that he was going to make me an offer I couldn't refuse. During this period and later on Frank Marolda assigned me to a huge, remote territory to organize, police, collect dues, etc., which [illegible] was ~~an impossible task~~. He badgered me so much that I did retire in January, 1977, after being told one morning by Frank Marolda that if I did not write my resignation that he would write it for me.

From 1975-77 I was also a trustee of the Local's Pension Plan and the Health and Welfare Plan. Mr. Marolda was pushing to merge the Pension and Health and Welfare Fund into the International Fund. I fought this move as did other union trustees and management trustees, and the funds stayed with the Local. I do not know what has happened since this time.

At one point, while Ralph Marolda was in San Jose, he introduced me to Flora Souza, a nursing home operator. Ralph said he was going to get her whole string of homes and set up a big Local and then he would have all the money he needed to work with. I understand that Souza was later convicted of medicare fraud.

Ralph Marolda carried a gun most of the time, either tucked in his shirt front or in a briefcase which he always seemed to be carrying. On one occasion I saw this weapon visible in the front of his shirt while on a picket line and he always brought the briefcase to Local 19 meetings. He had insured that everyone knew he had the gun in his briefcase and when he set it on the table at a meeting, this set an intimidating tone for the meeting. After I retired in 1977 I continued to attend union meetings (and take abuse) and take an active interest in Local 19's affairs. The meetings were run entirely by Frank Marolda although his brother had departed the area abruptly by this time. The meetings sometimes became a shambles and were attended primarily by Marolda's Executive Board members and some senior citizen followers. The quorum for meetings was 25 members, and many times there was no quorum present, so there was no official meeting; but general discussion was held for those who chose to stay around, and I always did. We would go 4 or 5 months without a financial report and when such a report was requested we were told the books were in the hands of the auditors. Also, during this period I or anyone else who questioned Frank Marolda's methods was ridiculed and abused in the Local's tabloid newspaper, without any possibility of getting a chance to say anything in the paper to correct the injustice. During union meetings Mr. Marolda would boast that he controlled the paper and everything that went into it or stayed out of it.

The membership, in regular order, had set up a strike fund with a $1.00 per month assessment, to be used solely to picket employers that refused to sign a new contract, and for negoiations and organizing. This fund HM probably reached $60,000 or more. However, I recall seeing few, if any, financial reports about it and eventually we heard that Mr. Marolda was putting up front money from the fund for his court cases to pay his lawyers to defend him.

Because of the serious problems I have mentioned and the fact that the Local had suffered the loss of many thousands of dollars in assets and hundreds of members, I flew to Palm Springs, California, in February of 1979 to see the union's General-President Ed Hanley. I knew he had been plagued by complaints about Mr. Marolda and I hoped to persuade Mr. Hanley to do something to help Local 19,and to clear some items of my own.

I met Mr. Hanley and we talked for about 3 hours and though he did admit that I had had a valid 3-year contract with the International he said little about the problems Mr. Marolda had created. Unfortunately, I never saw any action from Hanley after our meeting. Things at Local 19 went on as before.

Herschell Morgan
Herschell Morgan

Sworn to and subscribed before me
this 22nd day of September, 1982.

Mary D. Fowler
Notary Public

My commission expires 12-20-85.

MARY D. FOWLER
Dec. 20, 1985

JHM

ADDENDUM TO AFFIDAVIT

This is a list of some of my activities, that I became involved in, over the years.
Community Chest, Labor member on Labor Mgment Committee, United Fund Drives, Y.M.C.A.
Heart Fund, Red Cross Activities. City of Hope Drives. Visiting Nurses Assn. 4 years.

Grand Jury 1954-55 (Carryover) Labor Member of Host Committee National Resourses Conference-Industrial College of the Armed Forces, San Jose 1953-54.
Member of Original Regional Hospital Survey Committee 1959-1960.

Labor member "Fiesta de las Roses Parade 1960. Steering Committee.
All American Award Celebration Committee 1960.
Awarded City of San Jose Medalion 1960.

Board member Santa Clara County T. B. Ass'n-13 years.
Board member " " " Cancer Society, Treasurer 1962-1963. 19 Years.
Board member " " " March of Dimes. 19 years.
S. C. County Past Grand Jurors Ass'n-1962-63-(61)

Member San Jose Chamber of Commerce Aviation Airport Commission. 1962-1963.
Member San Jose city Committee, on Municipal Finances. 1962.
Awarded Distinguished Citizen Award, by San Jose City Council 1962.

Re-appointed member of Hospital Commission of Santa Clara County, by County Board of Supervisors. 1962-1963.
Received " U.S.O" War Service Award.
Member Santa Clara County Alcoholism Commission. 1973-1974. 18 months. 8
Appointed by City of San Jose, to San Jose Airport Advisory Commission, for 2 terms 1970's.

Appointed to Economic Opportunities Commission- Small Business Division 1966.

Joined the Union, October 1936. Elected Secty-Bus-Agt--BusMgr. May 1939, to Sept30,1975.
Union Merged, to form Local # 19. Forced Retirement January 1977. Still a member.

Recording Secretary, County Central Labor Council A. F.L-C. I. O. 30 years.
Second Vice President of Labor Council for years, then First Vice Pres. until 1979.
Elected president 1979 and 1980. Still delegate to Council.
Elected as Ninth District Vice Pres. Calif State Council of Culinary Workers from 1939 until August 1962. 23 years.

Herschell Morgan
Herschell Morgan

Sworn to and subscribed before me
this 22nd day of September, 1982.

Mary D Fowler
Notary Public

My commission expires 12-20-85.

MARY D. FOWLER
Dec. 20 1985

JHM

SWORN AFFIDAVIT OF JOHN JAMES

My name is John James and I live in San Jose, California. In 1962 I was a member of the Joint Executive Board of Locals 577 and 180 and an Executive Board member of the Bartenders Local 180. I held these positions until the merger in 1975. Thereafter, I was a member of Local 19's Executive Board until the election in 1978.

Frank Marolda used a number of dirty tricks to dominate the local and get rid of people who opposed him or questioned what he did. He forced several older officers out including Sue Bosco, financial Secretary/Treasurer, Herschel Morgan and Joe Santamaria vice-presidents, Bob Schilling and others.

Sue Bosco's late husband Louis Bosco had been in charge of local 180 for years and was ill with cancer at the time of the merger in October 1975. He died in July 1976. Part of the merger agreement said that Sue Bosco would be Secretary-Treasurer of Local 19 for three years and the other officials of the merged locals like Herschel Morgan and Joe Santamaria would be employed by the new Local for 3 years. Frank Marolda caused Mrs. Bosco to resign early (April 1977) by abusing her in many ways including taking away most of her duties, moving her to a small room and forbiding any employees to talk to her. Mr. Marolda has control of the current Executive Board because many of them are retired and need the health insurance that the Executive Board job provides.

Frank Marolda brought in his brother Ralph and others from Chicago as organizers without approval of the Executive Board. About 75% of the time he would bypass the financial report at meetings saying anyone who wanted to could see it after the meeting. We never were allowed to see the bank book or other back up documents to the statement. At one point Frank Marolda was appointed a State Organizer by General President Ed Hanley and received an additional $600.00 a month plus $15.00 a day expenses from the International.

Ralph Marolda carried a gun from time to time and would act in a threatening manner around the office. He did little or no work for Local 19 acting mostly as a bodyguard for Frank Marolda.

The first two meetings of the Executive Board held after Mr. Marolda became President he told us that all around the country people who work for the union were getting shot and in fact he had been shot just before he left Chicago. Therefore, he really ought to take out some insurance on himself for his wife. After that we heard no more about insurance but about 8 months later Sue Bosco asked me if the Executive Board knew that Mr. Marolda had bought a $25,000 insurance policy with union funds. He did not tell anyone about it and I doubt if the members are aware now that they paid for that insurance. I did not tell anyone about this as Mrs. Bosco was having a hard time holding on to her job as it was. After she retired I didn't say anything about it because I was also having a hard time sitting at the executive board table. I would not go along with a lot of Mr. Marolda's ideas and when they vote on something only myself and one other member, William Ferris, would vote against Mr. Marolda's ideas, so we always got out-voted. One month before the Local 19 election of officers in September 1978, members at the regular meetings began asking Mr. Marolda to post the names of the candidates. Mr. Marolda repeatedly assured the members that a list of candidates would be out well in advance of the election. However, he failed to do this and no such list was put out until the day of the election. Also, the day before the election a letter went out from the Local to the candidates opposing Mr. Marolda and the other two top jobs. This letter told these candidates they were not eligible to run for office, so Mr. Marolda and his friends automatically stayed in office.

Through these tactics and his control over Executive Board members Mr. Marolda runs the Local any way he wants to and there is really nothing the members can do to get their Local back.

I. John James have read the one

(Individual)

STATE OF CALIFORNIA
COUNTY OF Santa Clara } SS.

On Oct. 10, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared John James, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

Signature Joan H. Miller

JOAN H. Miller
Name (Typed or Printed)

(This area for official notarial seal)

PREPARED

STATEMENT

OF

GARY I. GILBERT

Mr. Chairman, my name is Gary Gilbert. I am 35 years old and have lived my entire life in and around Oakland, California. Though I am presently self-employed as a photographer and graphic artist, I have worked in the Oakland area as a bartender off and on since 1967. During that time, I have been a union member - first of Bartenders Local 52, and, after 1975, of Local 28 of the Hotel and Restaurant Employees, into which Local 52 merged. From 1977 to 1981, I was a trusted associate of Local 28's then - Secretary-Treasurer, Ray Lane. Our relationship led me to be his accomplice in his 1981 attempt to regain control of Local 28, "his" union.

My exposure to union corruption began with my first contact with Local 52. In 1967, when I first sought work as a bartender, the union sought to bar me because there were, according to union representatives, "too many people out of work already". It was only after I agreed to a $300.00 cash payment to Local 52's president that I was permitted to join the union, which is to say, permitted to earn a living as a bartender.

In 1977, having been out of the business for a time, I decided to go back to bartending. At that time, I was aware that Ray Lane of Local 28 was "the man to see" for any decent bartending job in the Oakland area. In fact, it was my understanding at the time that Lane's grip on Oakland bartending jobs was so complete that the only job dispatcher for bartenders in the entire local was his wife, Ellie.

Though I have often supported myself as a bartender, my primary talent is as a photographer. Having made Lane's acquaintance in 1977, I immediately began seeking out opportunities to take pictures that would be of use to the local. I visited picket lines and union meetings, for example, in an effort to record the union in action. My efforts were successful: after several months of supplying photographs to Local 28's house paper on an informal basis, I was given a desk in local headquarters and assigned to the paper full-time.

Like everyone else at Local 28 headquarters, my performance was in large part influenced by the personal demands of Ray Lane. Much of my time was spent in pursuit of photographs which would be published in the local's paper to embarrass or discredit Lane's political opponents within the local. In addition, I was responsible for providing photographic support for Lane's program of self-glorification in the paper. This latter practice became so obvious that a federal court threw out Lane's 1977 election because of his illegal self-promotion in the paper during the campaign.

Full-time work at Local 28 headquarters provided an opportunity to see Lane's style of leadership first-hand. My earliest recollection of his iron-fisted methods is overhearing him tell a union member who had expressed her support for a political opponent of Lane's in the 1977 election that if she continued that support she "would never work in Oakland again".

Shortly before the 1977 election, I saw a union ballot box in Ray Lane's office safe, the same safe to which similar boxes were brought to await ballot-counting following the vote. It was not until 1980 that Lane trusted me enough to reveal that the "extra" box, planted in the safe with the legitimate ones, had contained the phony ballots necessary to give him a landslide.

The "extra box" was not Lane's only election abuse. Local 28 members, like all HEREIU members have individual "union books", individual records identifying the member and documenting his dues-paying status--which would be turned into the local whenever the owner-member retired or went on inactive status. The local therefore had quite a collection of these, which Lane would supply to Local 19 in San Jose to pool with other such books kept by that local. Lane's partner in this scheme, Frank Marolda, President of Local 19, would then issue these books to his cohorts, who would use them to get by Department of Labor poll monitors and cast illegal votes guaranteeing Marolda a victory. On other occasions, Marolda would supply the retained books to Lane so he could pull off the same scam in Oakland. This went on during the entire time I was at Local 28. Lane himself told me about this scheme and introduced me to Marolda. According to Lane, he and Marolda met regularly to discuss how to handle their respective locals.

In 1978, Lane was indicted by the federal government for embezzling union funds. Being indicted made him irate; it seemed to me that it hardened his determination to crush anyone he saw as an opponent. In one instance, he went after a political opponent, Phyllis Johnson. As was typical, Lane didn't want to be visible in the scheme, so he arranged for union charges to be filed by someone else. Through his surrogate, Local President Jody Kerrigan, he then went about hand-picking the members of a trial board who would hear the case. Union rules, however, permitted Kerrigan to pick only three of the board's five members; the vice-president appointed two more. Lane circumvented this rule as easily as he did most others--knowing I would be one of his votes on the trial board, he had the vice-president appoint me. In this way, he was able to completely pack the board, despite union rules designed to prevent it. Phyllis Johnson didn't have a chance.

Over time, Ray Lane came to trust and rely on me. He would frequently confide in me about both the past and the future. He told me about armed robberies he and his brother had pulled off in their younger years. He told me how he kept a "black list" of Local 28 members who were to be kept from working--a list I in fact saw more than once. He bragged to me about his close ties to various convicted felons, including Alan Dorfman, Rudy Tam and Abe Chapman. Once he showed me a party invitation from Dorfman, printed in the form of a subpoena. On another occasion, he told me he could assure me a job in Tam's organization. Lane personally introduced Chapman, a frequent visitor to Lane's Local 28 office. Chapman described himself to me as the "last surviving member of Murder, Inc.".

Lane also boasted to me of his close relationship with International President Ed Hanley, who had originally appointed Lane to head up Local 28 at the time of its formation in 1975. Many times, I heard Lane say that he "had Hanley in his hip-pocket". He also told me that his lifetime pension--given to him while he was Secretary-Treasurer but withdrawn following his felony conviction in 1978--was going to be restored to him by Hanley personally. He claimed to have received that assurance directly from Hanley at a Palm Springs meeting in April of this year.

Lane sought me out after his release from federal prison in 1981. He had a scheme to regain control of "his" local, and he persuaded me to be his accomplice. The plan was simple: I would file union charges against the incumbent Secretary-

Treasurer, Frank Van Kempen. The charges would be heard by a five-person trial panel, three of whose members would be picked by incumbent President Jim Smith, who, according to Lane, was firmly under Lane's control.

I did what Lane wanted. On September 2, 1981, I filed charges--drafted personally by Lane--against Frank Van Kempen. My reward was to be a full-time position as a Local 28 business agent.

Our plan fell apart, however when Lane's opponents in the local filed charges of their own against Jim Smith. With charges pending against him, Smith was prohibited by the union's by-laws from appointing trial board members. Lane's control of the board's decision was thus lost, and we had to find a way to stop the process we had started. Lane resorted to a series of letters and mailgrams, some bearing my name or forged signature, to make it appear that his opponents were tampering with the hearing process. These mailgrams included one to a Staff Counsel of this Subcommittee, over my name but without my knowledge or authority.

Ultimately, a Department of Labor investigator unravelled the scheme. Sick of the whole business, I agreed to cooperate with the government. New Federal criminal charges were brought against Lane in August 1981, and a trial on those charges is underway as of the date of this statement, September 29, 1982.

GARY GILBERT
1200 LAKESHORE AVE APT 5D
OAKLAND CA 94606

Mailgram

0-001561S105 04/15/82 ICS IPMBNGZ CSP WSHB
4155225105 MGM TDBN OAKLAND CA 260 04-15 0423A EST

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SENATE SUBCOMMITTEE
WASHINGTON DC 20510

PER MY LETTER OF 4/13/82 I NOTIFY YOU THAT THE TRIAL WAS CANCELLED AGAIN. SINCE THEN I HAVE BEEN INFORMED THAT VAN KEMPEN COMMITTEE CANCELLED THEIR CHARGES THAT I FILED AGAINST THEM. SINCE I FILED THE CHARGES ON SEPTEMBER 2, 1981 I APPEARED THREE TIMES AT THE APPOINTED DATE AND HOUR WHEN THE TRIAL WAS TO BE HELD EACH TIME, EACH TIME JODY KERRIGAS OR NELLIE RODRIGUEZ STONEWALLED IT FOR VAN KEMPEN, MY FOURTH TIME TO APPEAR WAS TO BE APRIL 12 AT 9 AM PRIOR TO APRIL 12 I RECEIVED A TELEGRAM ON APRIL 10 INFORMING ME THAT THE TRIAL WAS POSTPONED AGAIN. JIM SMITH STATED HE WAS ASKING FOR A POSTPONMENT. I IMMEDIATELY ANSWERED HIS TELEGRAM PRIOR TO RECEIVING HIS SECOND COMMUNICATION CANCELLING THE TRIAL. I IN TURN SENT A TELEGRAM A BULLETIN TO THE CHAIR PERSON OF THE TRIAL BOARD ASKING THEM TO NOTIFY ME WHEN THEY SET THE DATE OF THE NEW TRIAL WHEN I DID NOT APPEAR, PER THE PRESIDENTS LETTER TO ME THEY DISMISSED THE CHARGES AGAINST FRANK VAN KEMPEN. AS FAR AS I AM CONCERNED MY CHARGES AGAINST THE SECRETARY FOR EMBEZZELMENT OF UNION FUNDS STILL STAND, I DEMAND FRANK VAN CAMPEN TO STAND TRIAL. HOW CAN THEY INFORM ME NOT TO SHOW AND THEN DISMISS THE CHARGES BECAUSE I DID NOT SHOW? SINCERELY
GARY GILBERT

CC: EDWARD HANLEY, PRESIDENT SUITE 1300 120 EAST 4TH ST CINCINNATI OH 45202
MICHAEL E EBERHARDT DEPUTY CHIEF COUNSEL THE SENATE SUBCOMMITTE WASHINGTON DC 20510

04:25 EST

MGMCOMP

STATEMENT OF BARBARA JEANNE CART
STAFF COUNSEL
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

I am a staff counsel with the Senate Permanent Subcommittee on Investigations. During this phase of the Subcommittee's investigation of the Hotel Employees and Restaurant Employees International Union (HEREIU), specifically Reno Local 86 and Las Vegas Local 226, Gramby Andrew Hanley was interviewed by Subcommittee staff on at least a half-dozen occasions .*

Gramby Hanley, who is not related to HEREIU General President Ed Hanley, was expected to testify before the Subcommittee regarding his knowledge of union payoffs for bombings in the Lake Tahoe and Las Vegas areas during the mid 1970's.

When Hanley was brought before the Subcommittee he carefully stated several conditions that he felt the Subcommittee should meet prior to his formal statement. Among these conditions was the request that any information revealed by him before the Subcommittee not be used against him at any future pardons and parole commission hearings in the State of Nevada. This condition, which had never been raised in prior discussions with Hanley, could not be granted, as the Senate is without authority to make such blanket guarantees regarding state agencies and their use of information previously made public. As a result, Hanley declined to testify until he had the opportunity to seek appropriate legal counsel.

At your request, Mr. Chairman, I would like to comment upon the information gleaned from the many interviews between Subcommittee staff and Gramby Andrew Hanley. Let me first point out that this information is considered to be credible and, to every extent possible, has been corroborated by other sources.

Gramby Andrew Hanley is the son of Thomas Burke Hanley, also known as Tom Hanley, now deceased, who was a union organizer in Nevada for approximately thirty-five years. Tom Hanley was first introduced into the union in the 1930's and worked as a business agent for the Sheet Metal Workers in 1939 or 1940, helping to form Local 88 in Las Vegas. According to his son, Tom fought with the Teamsters for control of that local. During that same time Tom was involved in numerous union activities with another well-known labor organizer, Al Bramlet, the head of Las Vegas Local 226 of the Culinary Workers Union.

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*David Faulkner and Michael Eberhardt inteviewed Mr. Hanley on August 13, 1981. Mr. Faulkner interviewed Mr. Hanley on August 23, 1982, and together with Barbara Cart, on September 9 and 16, 1982. Ms. Cart and Howard Shapiro interviewed Mr. Hanley on September 15, 1982. Mr. Hanley was again interviewed on September 25, 1982, by Mr. Faulkner, Ms. Cart and PSI Chief Counsel, S. Cass Weiland and on September 26, 1982, by Mr. Faulkner and Mr. Weiland.

According to Gramby, Tom was framed for the murder of Jimmy Heatley in the mid 1950's during a power struggle for control of the Sheet Metal Workers International Union. Although Tom was never convicted of the Heatley murder, he was expelled from the Union.

In the 1960's, Tom Hanley formed the American Federation of Gaming and Casino Employees and began an all-out effort to organize the Las Vegas dealers. He won several contracts covering employees from some of the city's smaller casinos. Although Gramby Hanley contends that his father's motives were in the best interests of the dealers, law enforcement sources maintain that Tom Hanley's "organizing" effort was merely a sham operation whereby he extorted thousands of dollars from casino owners. Supposedly Tom placed pickets in front of a targeted casino. Once the payoff was made, the pickets were removed.

During this same time period, Tom struck an informal agreement with Al Bramlet, who had organized the culinary workers in the Las Vegas area. According to Gramby, Bramlet and Tom Hanley reached an informal agreement whereby Tom kept the dealers, the change girls, shills and cage personnel, while Bramlet took the cocktail waitresses.

Tom Hanley retired from the union in the late 1960s. Gramby contends that this retirement was forced, resulting from a threat to Tom's life from parties opposing the unionization of dealers. There is evidence to indicate that, in fact, it was actual control of the dealers union and not unionization per se that was the source of contention.

Due largely to his father's connections, Gramby became personally involved with unions at an early age. He eventually took an entrance examination, and worked as an apprentice through Local 108 in Los Angeles. From his father, Gramby learned how to organize a union, maintain picket lines and, once a union was organized, how to invest money from various funds in profitable ventures.

Between 1957 and 1966, Gramby Hanley was arrested on numerous charges ranging from trespassing and interference with the police to possession of stolen property and burglary. In 1966, Hanley was convicted of burglary and sentenced to 1-15 years in prison. Released on parole two years later, Hanley left Nevada to work for the migrant farm workers union in Southern California.

In 1974, Gramby Hanley returned to Nevada. At the time, Al Bramlet had been named trustee of Reno Local 86 and the Culinary Workers Union was in the midst of an organizing effort in the Reno/Lake Tahoe area. Picket lines were placed in front of several hotel-casinos, including the Sahara-Tahoe and Harvey's Wagon Wheel. According to Gramby, his father asked him if he wanted to go to work for the union, helping them to organize. He told his father that he was interested, but not in being "out front." Tom Hanley then took Gramby to the union hall of Las Vegas Local 226 to meet with Al Bramlet, where Bramlet asked Gramby what kind of work he would be willing to do. Gramby supposedly told Bramlet he would help to "settle disputes," but declined to be put on the union payroll.

In our many conversations Gramby insisted that he went to Tahoe at Bramlet's request to determine the feasibility of using "smoke" and "stink" bombs to settle the Tahoe labor dispute. Bramlet allegedly paid about $1,500 for the cost of this trip. Tom Hanley was also present in Tahoe on this occasion, although he came up in his own vehicle.

Gramby admitted that he observed three Tahoe casinos and advised Bramlet that Harvey's could easily become the target for such a bombing, Harrah's would be impossible, and the Sahara-Tahoe would be "feasible". He explained "feasible" in terms of cost, not getting caught, and so forth. Gramby then went on to Modesto, California, returning to Las Vegas several days later. About this same time, Bramlet hired Gramby to bomb the Alpine Village Restaurant in Las Vegas. Although, according to Gramby, Bramlet was eager for him to begin the jobs as soon as possible, Gramby waited until he could do all three jobs at the same time.

In the spring of 1975, Gramby wired the Alpine Village for explosives. In September of that year, be returned to Tahoe and placed a bomb at Harvey's. He attempted to set explosives at the Sahara-Tahoe that same night but the attempt was foiled when he was almost caught by security guards.

After detonating the bomb at Harvey's, Gramby drove back to Las Vegas and set off the explosives at the Alpine Village. Although Bramlet had agreed to pay $25,000 for each of the bombings, Gramby contends that he received only $6,000 - $8,000 for Harvey's and $8,000 - $9,000 for Alpine Village. The money for each bombing was paid indirectly, through his father.

Tom Hanley advised his son that the money for the bombings in Tahoe came from the Reno local via the International Union and was put into a separate picket fund under Bramlet's control. Other PSI information confirmed that a picket fund was established and pickets were being paid daily on a cash basis.

Gramby Hanley indicated that he was also instrumental in the bombing of David's Place, a restaurant in Las Vegas. That job was also contracted by Al Bramlet, who agreed to pay Gramby $25,000 for the bombing. Gramby received only $10,000--paid directly by Bramlet--for the bombing of David's Place. According to Gramby, the money came much more quickly than the other jobs, and it was his understanding that the bombing was a vendetta paid for by individuals out of New York.

Sometime after the bombing of David's Place, Gramby and Tom Hanley were in the offices of Culinary Local 226 in Las Vegas. Tom left Gramby to attend a meeting with Al Bramlet and International President Ed Hanley. When Tom came out of the meeting room, he told Gramby that Ed Hanley "liked the way that things were being handled" in Las Vegas.

Gramby Hanley estimates that he received a total of approximately $50,000 for the various bombings in Tahoe and Las Vegas from 1975 through early 1977. This included money to cover his costs for the bombings. Approximately half of the money was paid to Gramby through Tom Hanley's company, the Oasis Air Conditioning Company. The rest of the money came in cash directly from Bramlet to Tom Hanley. During this time, the Oasis Air Conditioning Company was paid approximately $80,000 for work done on Local 226 offices. In addition, Gramby estimates that Tom Hanley received $40,000 - $60,000 in illegal money from Bramlet.

Gramby Hanley was also hired by Bramlet to bomb two Las Vegas restaurants in January of 1977: the Starboard Tack and the Village Pub. The bombs were meant to frighten management into signing a contract with the union which was on strike at the time. Gramby contends that the bombs were not designed to go off--merely to intimidate the owners. Law enforcement officials advise, however, that the bombs were extremely lethal devices which could easily have killed several people. The bombs were discovered by the fire department which was called when someone noticed leaking gasoline around a parked vehicle. The bombs were subsequently disarmed and Bramlet refused to pay Gramby for these jobs.

On February 24, 1977, Gramby told his father that he wanted the balance of the money promised by Bramlet. That afternoon, Tom Hanley, his friend C. E. Vaughn and Gramby met Bramlet at the McCarron Airport in Las Vegas and abducted him. According to Gramby, they drove into the desert, questioning Bramlet about the money he owed Gramby for the bombings and about an additional $25,000 that Bramlet was to put up for a possible bail bond if Gramby was arrested. Bramlet agreed to try to get the money, so they drove him to a desert area outside of Las Vegas, where he made several phone calls.

During the drive from the airport, Tom Hanley also questioned Bramlet about various statements that Bramlet had made to law enforcement officers over the preceding two months. Gramby contends that Ben Schmoutey, then president of the Las Vegas local, had recorded conversations in Bramlet's office unbeknownst to Bramlet. Included in these conversations were interviews between Bramlet and local law enforcement officers wherein Bramlet discussed loans from the Culinary Workers Union to individuals at the Dunes Hotel.

Bramlet, as trustee for the Las Vegas local's pension fund, arranged for the fund to loan Morris Shenker, owner of the Dunes Hotel, $28-30 million. Gramby Hanley maintains that Shenker paid Bramlet between $1 and $1.5 million in kickbacks for the loans. His information is based upon comments made by Tom

Hanley, who allegedly saw $500,000 of the money in cash at Bramlet's ranch in Needles, Arizona. Also, as a gratuity, Bramlet was allegedly given a chalet in Switzerland.

In our conversations Gramby maintained that, at the time of the abduction, Bramlet was in the process of liquidating his assets in Nevada and was planning to leave the country. Bramlet was supposedly concerned about getting caught over the Las Vegas/Tahoe bombings, and was bothered by the ongoing investigation by federal investigators into the loans he had authorized to Shenker.

Gramby also contends that Bramlet was attempting to strike a deal with Frank Fitzsimmons of the Teamsters Union to sell the Las Vegas Culinary Workers out to the Teamsters. In fact, an attorney from New York was scheduled to meet with Bramlet about the proposed "sale" on the day Bramlet was kidnapped and was apparently quite shocked when Bramlet disappeared.

Information in the possession of the Subcommittee clearly indicates that Ed Hanley, who became International President in 1973, was attempting to gain control of the health and welfare plans for all of the HERE locals. Ed Hanley admitted as much in the Officers Report of the 39th General Convention (HEREIU) dated June 22, 1981. Bramlet resisted the move--a key stumbling block since Bramlet controlled the largest local in the HEREIU at the time. Law enforcement officials in Nevada advised the Subcommittee that a meeting occurred between Ed Hanley and Al Bramlet in Palm Springs, California, to resolve the issue. Bramlet returned to Nevada with a black eye and several broken ribs, telling friends that he had fallen off a bar stool.

Gramby Hanley related a slightly different version of the story, indicating that Bramlet was supposed to sign over the local health and welfare plans to Al Pilotto on behalf of the Chicago mob. Bramlet refused to sign. Later, an enforcer who worked for reputed organized crime figure Tony Spilotro knocked Bramlet off a bar stool and told him that he would be killed if necessary. Gramby stated that, in about 1976 at the union hall, Tom Hanley had pointed out two men who were there to meet with Bramlet about the health and welfare plan. One of the men was Pilotto. He did not recall the name of the other man. At the time, Tom Hanley commented that either they would get the health and welfare package or Bramlet was dead.

Although there is no actual proof that Tom Hanley had a contract to kill Bramlet, Gramby seems convinced that one existed. On the night that Bramlet was killed, three telephone calls were made: the first was made from Good Springs, Nevada, by Tom Hanley to the Dunes Hotel, the other two were made from Spring Mountain, Nevada, by Bramlet also to the Dunes. After the last call, Gramby and Tom Hanley and C. E. Vaughn drove back into the desert with Bramlet. According to Gramby, Vaughn and Tom became adament about not taking Bramlet back to Las Vegas alive. While talking outside of the van, Gramby noticed that a second car drove into the desert and turned its lights out. At this point, feeling that there was more involved than he had at first realized, he decided not to argue further. Gramby went to the front of the van and climbed inside, leaving Tom with Vaughn and Bramlet at the back of the van. A few minutes later, Gramby heard gun shots. Bramlet had been killed.

Three weeks later, Tom and Gramby Hanley were arrested for the murder of Al Bramlet. They were later convicted by the State of Nevada and were sentenced to life imprisonment without possibility of parole. Tom Hanley subsequently died in prison.

C. E. Vaughn turned state's witness and was never prosecuted. In fact, Vaughn actually collected part of the reward money offered by Ben Schmoutey, acting on behalf of Las Vegas Local 226, for finding Bramlet's body.

Ben Schmoutey, president of Local 226, assumed control of the Las Vegas local upon Bramlet's death. (In this local, as in most HERE locals, the real seat of power lies in the position of secretary-treasurer, rather than the presidency.) Schmoutey was also named trustee of Reno Local 86 but within a month was replaced by Gerald McHugh, who continued the organizing effort begun by Bramlet in the Reno/Lake Tahoe area. Under Schmoutey's leadership, the Las Vegas Local 226 health and welfare fund was finally merged with the International in 1981.

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